

COUNCIL MEETING

OCTOBER 19, 2016

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, on Wednesday, October 19, 2016 at 8:30 a.m., after which the following Members answered the call of the roll:

Honorable Mason K. Chock
Honorable Gary L. Hooser (*present at 8:31 a.m.*)
Honorable Ross Kagawa
Honorable Arryl Kaneshiro
Honorable KipuKai Kuali'i
Honorable JoAnn A. Yukimura
Honorable Mel Rapozo

APPROVAL OF AGENDA.

Councilmember Kuali'i moved for approval of the agenda as circulated, seconded by Councilmember Kaneshiro, and carried by a vote of 6:0:1 (*Councilmember Hooser was excused*).

MINUTES of the following meetings of the Council:

(*Councilmember Hooser was noted as present.*)

September 7, 2016 Council Meeting
September 7, 2016 Public Hearing re: Bill No. 2635
September 21, 2016 Council Meeting
September 21, 2016 Public Hearing re: Bill No. 2636
October 5, 2016 Public Hearing re: Resolution No. 2016-57, Bill No. 2634, Bill No. 2637, and Bill No. 2638

Councilmember Kuali'i moved to approve the Minutes as circulated, seconded by Councilmember Kaneshiro, and unanimously carried.

CONSENT CALENDAR:

C 2016-210 Communication (09/01/2016) from the Mayor, transmitting the Public Access, Open Space, and Natural Resources Preservation Fund Commission's recommendation, a Resolution Authorizing The Acquisition Of A Public Pedestrian Beach Access Easement In Land Required For Public Use To Wit: A Public Pedestrian Beach Access Easement To Kukui'ula Bay, Kukui'ula, County Of Kaua'i, Hawai'i, And Determining And Declaring The Necessity Of The Acquisition Thereof By Eminent Domain.

C 2016-211 Communication (09/06/2016) from the Mayor, transmitting for Council consideration and confirmation, Mayoral appointee Daniel K. Aki to the Salary Commission – Term ending 12/31/2018.

C 2016-212 Communication (09/21/2016) from the Acting County Engineer, transmitting for Council consideration, a Resolution Authorizing The Mayor Or The Director Of Finance Of The County Of Kaua'i To Enter Into An Intergovernmental Agreement With The State Of Hawai'i, Department Of Health For A Loan From The State Water Pollution Control Revolving Fund For The Hanamā'ulu And Kapaia Sewage Pump Stations (SPS) Renovations, Project No. C150059-23.

C 2016-213 Communication (09/28/2016) from the Director of Finance, transmitting for Council information, the Condition of the County Treasury Statement quarterly report as of August 25, 2016.

C 2016-214 Communication (10/01/2016) from the Mayor, transmitting for Council consideration and confirmation, the following Mayoral reappointments to the various Boards and Commissions serving the County of Kaua'i:

a. Building Board of Appeals

- Patrick D. Lizama (Fire Safety) – Term ending 12/31/2019

b. Board of Ethics

- Ryan M. de la Pena – Term ending 12/31/2019
- Maureen M. Tabura – Term ending 12/31/2019

c. Board of Water Supply

- Laurie K. Ho – Term ending 12/31/2019

d. Civil Service Commission

- Elizabeth Hahn – Term ending 12/31/2019

e. Cost Control Commission

- Joanne P. Nakashima – Term ending 12/31/2019
- Jan Hashizume – Term ending 12/31/2019

f. Fire Commission

- Michael Martinez – Term ending 12/31/2019
- Chad K. Pacheco – Term ending 12/31/2019

g. Liquor Control Commission

- Jean A. Iida – Term ending 12/31/2019
- Paul N. Endo – Term ending 12/31/2019

h. Planning Commission

- Sean M. Mahoney (Labor) – Term ending 12/31/2019
- Heather K. Ahuna (Environmentalism) – Term ending 12/31/2019

i. Police Commission

- Gerald Bahouth – Term ending 12/31/2019

j. Salary Commission

- Lenie F.P. Nishihira – Term ending 12/31/2019

C 2016-215 Communication (10/05/2016) from the County Attorney, transmitting for Council information, the Quarterly Report on Settled Claims which were filed against the County of Kaua'i from July 1, 2016 through September 30, 2016.

Councilmember Kualifi moved to receive C 2016-210, C 2016-211, C 2016-212, C 2016-213, C 2016-214, and C 2016-215 for the record, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion or public testimony? Please, come forward.

There being no objections, the rules were suspended to take public testimony.

ANNE PUNOHU: *Aloha*, my name is Anne Punohu. Earlier, I said it was a positive agenda, but then I said, "Oops." On your first item this morning, you have a real issue with Kukui'ula and the reason why is not because what it wants to do, that is great and fine. The problem is that it is royal patent, which is Hawaiian royal lands awarded to Kānehoa, unless Kānehoa and his heirs have given permission for this and we all know that this is a huge, hot button issue. I want to make sure that the heirs or any family member has had the opportunity to step forward and state their opinion on the fact that a royal patent land is scheduled for condemnation for the road. It is fine to do it and the idea of what you want to do is not a problem for me. My problem is the fact that it is *Palapala Sila Nui* under the Great Māhele. That is my problem. With everything that is going on today and my keen interest in these matters for many years, I would say that with everything that is going on right now with the temperature of these types of issues, it would really behoove the Council to be very diligent on making sure that all your "I's" are dotted and your "T's" are crossed and that everybody is aware exactly of what is going on. That is my opinion at this point. *Mahalo*.

Council Chair Rapozo: Anyone else wishing to testify? Seeing none.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any further discussion?

The motion to receive C 2016-210, C 2016-211, C 2016-212, C 2016-213, C 2016-214, and C 2016-215 for the record was then put, and unanimously carried.

COMMUNICATIONS:

C 2016-216 Communication (09/15/2016) from the Chief of Police, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$648,245.00, from the recurring National Highway Traffic Safety Administration (NHTSA) grant to be used towards the following traffic related functions: Data Traffic Records, Distracted Driver, Occupant Protection, Pedestrian, Road Block, Speed, Youth Deterrence, Traffic Services, purchase of equipment, supplies, training expenses, media expenses, et cetera: Councilmember Kualii moved to approve C 2016-216, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-216 was then put, and unanimously carried.

C 2016-217 Communication (09/19/2016) from the Director of Economic Development, requesting Council approval to receive and expend State Funds subject to availability under the Title I Federal grant, in the amount of \$339,594.00 per year for a four-year contract, from the Workforce Development Council to be used for the Workforce Innovation and Opportunity Act of 2014 WIOA, Adult, Dislocated Worker, Youth Service Programs, and other administrative costs: Councilmember Chock moved to approve C 2016-217, seconded by Councilmember Kualii.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-217 was then put, and unanimously carried.

C 2016-218 Communication (09/21/2016) from the Fire Chief, transmitting for Council consideration, proposed amendments to Ordinance No. B-2016-812, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2016-2017, by revising the amounts estimated in the General Fund, to replace the Kaua'i Fire Department's (KFD) 50 Automated External Defibrillators (AED) and includes, rechargeable batteries, carrying case, data card, and training packs. (*Kaua'i Fire Department, Training Bureau, Other Small Equipment, Fifty (50) Automated External Defibrillators – \$151,000.00*): Councilmember Kagawa moved to receive C 2016-218 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Councilmember Yukimura.

Councilmember Yukimura: I think this was in the budget proposal for this fiscal year and because the Chief had a grant request and we thought it would be covered, we did not fund it, and now that all grant options have been exhausted, the Chief is back to ask us for this. It just shows us the importance of the reserve and the tightness of our budget because if we had to fund it in the budget, the three hundred thousand dollars (\$300,000) plus, that we set aside for highway/road repair would have been less. Just to point out how tight the budget is and the importance of keeping high enough reserves for problems like this. I just wanted to point that out.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I really do not want to make this sound like a pity party for the Fire Department because as you have seen by the reserves that go on, they are not holding back even though the budget is tight with travel and all types of things. I am not the Fire Chief, but I do not believe those are necessary when the budget is tight, but again, it is up to this Council to decide whether or not we should make the Fire Department go into their budget and cut things that can be cut or just go on with business and keep coming back through the reserve. Again, it is very tough from the Council's side to know what is a legitimate cut or not and that is what makes this job so tough. Thank you.

Council Chair Rapozo: Anyone else? If not, the motion on the floor is to receive.

The motion to receive C 2016-218 for the record was then put, and unanimously carried.

C 2016-219 Communication (09/21/2016) from the Fire Chief, transmitting for Council consideration, proposed amendments to Ordinance No. B-2016-812, as amended, relating to the Operating Budget of the County of Kaua'i, for the Fiscal Year 2016-2017, by revising the amounts estimated in the General Fund, to replace the Kaua'i Fire Department's (KFD) 60 Self Contained Breathing Apparatus (SCBA) and includes air cylinders, rechargeable batteries, and chargers. (*Kaua'i Fire Department, Fire Operations, Public Safety, Sixty (60) Self-Contained Breathing Apparatus (SCBA) – \$390,000.00*): Councilmember Kuali'i moved to receive C 2016-219 for the record, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-219 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-220 Communication (10/03/2016) from the Prosecuting Attorney, requesting Council approval to receive and expend State General Funds, in the amount of \$25,000.00, from the State Office of Youth Services contract DHS-16-OYS-624, to be used to subcontract to Hale 'Ōpio Kaua'i, Inc., for Kaua'i Teen Court Services from December 1, 2016 to November 30, 2017: Councilmember Chock moved to approve C 2016-220, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Is there any discussion?
Councilmember Yukimura.

Councilmember Yukimura: Yes. I just want to say how happy I am that this is going to continue the Kaua'i Teen Court because it is evidence-based, it shows that it really helps to keep our young people from further problems with violations, and it helps to get them on the right track in a very effective way. So I am glad that we are able to fund this.

Council Chair Rapozo: Thank you. Is there any other discussion?

The motion to approve C 2016-220 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-221 Communication (10/12/2016) from the Emergency Management Administrator, requesting Council approval to receive and expend grant funds from the United States Department of Homeland Security, via the State of Hawai'i Department of Defense, in the amount of \$4,929.91 in addition to the FY 2014 State Homeland Security Grant Program which was previously approved (C 2014-272), for efforts to upgrade the 800 MHz radio system.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Council Chair Rapozo, we received a transmittal from the Emergency Management Administrator informing the Council that the grant amount should be revised to eight thousand six hundred sixty-nine dollars and seventeen cents (\$8,669.17). They were notified by the State Department of Defense that additional moneys are available.

Council Chair Rapozo: Thank you. I am looking for a motion to approve with an amended amount of eight thousand six hundred sixty-nine dollars and seventeen cents (\$8,669.17).

Councilmember Kagawa moved to approve to receive and expend the amended amount of eight thousand six hundred sixty-nine dollars and seventeen cents (\$8,669.17), seconded by Councilmember Kualī'i.

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve to receive and expend the amended amount of eight thousand six hundred sixty-nine dollars and seventeen cents (\$8,669.17) was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item.

(Councilmember Kaneshiro was noted as recused from C 2016-222.)

LEGAL DOCUMENTS:

C 2016-222 Communication (09/21/2016) from the Acting County Engineer, recommending Council approval of a Wastewater Facilities Cost-Share Agreement from Ha'ili Moe, Inc., a Hawai'i Corporation, for a public-private partnership between Grove Farm Company, Inc., and the County for renovation to the County's existing Hanamā'ulu and Kapaia Sewage Pump Stations (SPS) situated at Tax Map Key (TMK) Nos. 3-6-02: por. 1, por. 4, 17, por. 18, 23, 24, 25, 26, 27; 3-7-01: por. 1; 3-7-02: por. 1 and por. 12; and 3-7-03: por. 20.

- Wastewater Facilities Cost-Share Agreement Between Ha'ili Moe, Inc. and the County of Kaua'i

Council Chair Rapozo: Thank you. With that, Councilmember Kaneshiro will be recusing himself from this item.

Councilmember Kualī'i moved to approve C 2016-222, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? Councilmember Yukimura.

Councilmember Yukimura: Are we having a presentation?

Council Chair Rapozo: If you want one.

Councilmember Yukimura: I think the public should know what is going on.

Council Chair Rapozo: Okay, we can suspend the rules. Is someone here from the Wastewater Division or from the Administration?

Councilmember Chock: They were here.

Council Chair Rapozo: Did they want this approved or not? If not, we can just send it to the Committee. I do not want to waste too much time during the Council Meeting.

Councilmember Kagawa: Council Chair Rapozo.

Council Chair Rapozo: Go ahead, Councilmember Kagawa.

Councilmember Kagawa: I think we have a pretty light agenda, so maybe we can push it to the end of calendar.

Council Chair Rapozo: Yes, let us move on. If they are not ready, we will move on. Let us take the next item. Tell them that we are going to move it to the end of the agenda, not the next item when they come. It is at the end of the agenda. Thank you.

C 2016-223 Communication (09/22/2016) from the Executive on Aging, recommending Council approval to enter into a Memorandum of Understanding (MOU) and Network Partner Agreement with Halawai Counseling and the National Kidney Foundation of Hawai'i, which will be involved with the Aging and Disability Resource Center (ADRC).

- Two (2) Memorandums of Understanding Between the County of Kaua'i Agency on Elderly Affairs and the above referenced Community Partners; and
- County of Kaua'i Agency on Elderly Affairs Network Partner Agreement.

Councilmember Kualii moved to approve C 2016-223, seconded by Councilmember Yukimura.

(Councilmember Kaneshiro was noted as present.)

Council Chair Rapozo: Is there any discussion? Is there any public testimony? Councilmember Kagawa.

Councilmember Kagawa: We are not going into depth with this, but it just seems like it is something probably related to diabetes, which is a huge problem on Kaua'i and in the State. I think we need to proceed on anything that can improve our service to those that need help in those areas, so I do not need any deep discussion on this one. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. Is there any discussion?

The motion to approve C 2016-223 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

C 2016-224 Communication (10/07/2016) from the Deputy County Attorney, recommending Council approval of a Confirmation Quitclaim Deed involving Tax Map Key (TMK) (4) 2-5-003:001, Lot 37-B, by ONE DIVA, LLC, to be used for public roadway purposes, located on Wawae Road, Lāwā'i.

- Confirmation Quitclaim Deed

Councilmember Yukimura moved to approve C 2016-224, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2016-224 was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

CLAIMS:

C 2016-225 Communication (09/29/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Mahasen H. Katoush, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-226 Communication (10/03/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Gary T. Mack, for damage to his personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-227 Communication (10/04/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Iris Ijima, for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-228 Communication (10/06/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Susan Hatch, for damage to her rental vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-229 Communication (10/07/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Carolina Santos, for reimbursement of medical bills, pursuant to Section 23.06, Charter of the County of Kaua'i.

C 2016-230 Communication (10/12/2016) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Island Insurance Company as subrogee for Anahita and Babak Azar for damage to their fence and personal property, pursuant to Section 23.06, Charter of the County of Kaua'i.

Councilmember Kualii moved to refer C 2016-225, C 2016-226, C 2016-227, C 2016-228, C 2016-229, and C 2016-230 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. I just want to make a noted that a couple of these claims, C 2016-226 and C 2016-230, involve damages caused by trees along the roadway. We did send a request to have the Department of Public Works to take a look. These residents are relatively close to each other, so that is a definite problem. We did receive some concerns from the community and those two (2) involve kind of the same issue. Then, I believe there are couple more that are involving traffic accidents by County vehicles. It seems like we are getting a lot of those. Please see if we can get a compilation of the motor vehicle accidents because I think we have been having quite a bit and I am getting concerned that we need some driver training or something because from what I have been reading, it is our cars hitting other cars. Is there any further discussion? Councilmember Kagawa.

Councilmember Kagawa: I asked for hat numerous times, I think even when Chair Furfaro was here. I wanted to see a breakdown of what were the reasons to see if there was a common denominator that was happening that caused a lot of these. When we are weed-whacking, are we weed-whacking rocks that are hitting windows? When I personally weed-whack near the roadway, I stop weed-whacking when I can hear a car coming or see a car coming through the side of my eye because that is definitely an immediate cause that would crack a windshield or dent a car. Is it being caused by a car following large vehicles? I do not know if the mudflat is not sufficient to prevent that. Again, if we had a nice breakdown of the history going back four (4) or five (5) years showing all of the different causes, then maybe we could come to some kind of solution that we can ask the Administration, "What are you doing to correct it? How are you preventing these?" There are times when we say, "Well, we are going to fight it. We do not believe that the claimant is correct," but then again, if we can prevent that from even happening, it will save our attorney's time from working on things that are nonsense in nature. Again, having the Council have to approve or disapprove these types of claims and the Council not receiving information that we ask for, and I am not saying that the Office of the County Attorney are the ones, I think the Department of Public Works, the Department of Parks & Recreation, the Transportation Agency, and whatever Department needs to have that compilation. They need to know what the causes are; how we can prevent it; and if it is negligent action by the drivers or the operators of these equipment, then what are we doing to make sure that it does not happen again? I have not seen that in four (4) years. I have been asking for that type of information and it is frustrating because we are looking at how we can save money and how we can make our offices more efficient. In any private business, you would get these types of answers just like that. Somebody would be working on it tomorrow and would get it in a week or what have you. Again, I have not seen any list of what the causes are and what the

common denominators that are causing these types of things to happen are for four (4) years. C 2016-230, "damage to their fence and personal property," if it is not a tree that fell for some reason, we do not know, what was it? Was it a County worker that banged the fence? If it was, then obviously, you have to be more careful. You should not be treating your vehicle as your own. You should be more careful because it is the County taxpayers' money. You are required to be careful. Again, I am frustrated in not knowing more details as to what we are doing to prevent these things from happening. Thank you, Council Chair Rapozo.

Council Chair Rapozo: Thank you. We will compile that list for all of us. The claims are kind of disturbing. Again, I am more concerned about the claims where vehicles are hitting other vehicles from the back. The real simple answer to that is, inattention, and I think that has to be addressed. With that, the motion is to refer.

The motion to refer C 2016-225, C 2016-226, C 2016-227, C 2016-228, C 2016-229, and C 2016-230 to the County Attorney's Office for disposition and/or report back to the Council was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

COMMITTEE REPORTS:

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2016-15) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved:

"Resolution No. 2016-57 RESOLUTION ESTABLISHING TRAFFIC LANE MODIFICATIONS AND BICYCLE LANES ON RICE STREET AND HO'OLAKO STREET; ESTABLISHING CROSSWALKS ON RICE STREET, PUA'OLE STREET, HO'OLAKO STREET, KALENA STREET, HO'ALA STREET, AND MALAMA STREET; AND REPEALING, AMENDING, AND ESTABLISHING PARKING RESTRICTIONS AND BUS STOPS ON RICE STREET, COUNTY OF KAUAI,"

Councilmember Kualii moved for approval of the report, seconded by Councilmember Chock.

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the report was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item, please.

BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2016-22) submitted by the Budget & Finance Committee, recommending that the following be Approved as Amended on second and final reading:

“Bill No. 2638 – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC,”

A report (No. CR-BF 2016-23) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2637 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of Economic Development, Grant In Aid (Special Events Security) – \$43,473.00*),”

Councilmember Kualii moved for approval of the report, seconded by Councilmember Yukimura.

Council Chair Rapozo: Thank you. Is there any discussion? Is there any public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the reports was then put, and unanimously carried.

Council Chair Rapozo: Motion carried. Next item.

RESOLUTIONS:

Resolution No. 2016-57 RESOLUTION ESTABLISHING TRAFFIC LANE MODIFICATIONS AND BICYCLE LANES ON RICE STREET AND HO'OLAKO STREET; ESTABLISHING CROSSWALKS ON RICE STREET, PUA'OLE STREET,

HO'OLAKO STREET, KALENA STREET, HO'ALA STREET, AND MALAMA STREET; AND REPEALING, AMENDING, AND ESTABLISHING PARKING RESTRICTIONS AND BUS STOPS ON RICE STREET, COUNTY OF KAUAI: Councilmember Kagawa moved for adoption of Resolution No. 2016-57, seconded by Councilmember Yukimura.

Council Chair Rapozo:

Thank you. Is there any discussion?

Ms. Fountain-Tanigawa:
registered speaker.

Council Chair Rapozo, we do have a

Council Chair Rapozo: Okay. Is there any preliminary discussion? If not, we will suspend the rules if there are no objections. Can I have the first registered speaker?

There being no objections, the rules were suspended to take public testimony.

Ms. Fountain-Tanigawa:
Mickens.

The first registered speaker is Glenn

GLENN MICKENS: Thank you, Council Chair Rapozo. For the record, Glenn Mickens. This is the fourth time I have testified on this issue. Obviously all of you know that I am against it. If any of you folks, Councilmember Yukimura too, would be good enough, at least I know you cannot verbally answer me, but if you can E-mail me or something; if I am right, tell me, "Okay, you are right." If I am wrong, tell me where I am wrong. You have a copy of my testimony, let me read it for, as my dear friend Ray Chuan used to say, "let me read it for the viewing public." My review of the County's Lihu'e Town Core Mobility Revitalization Plan has brought me to one (1) conclusion, that the reconfiguration of Rice Street making it two (2) lanes from the existing four (4) lanes; putting bike lanes along it, narrowing it even more; adding crosswalks; and repealing, amending, and establishing parking restrictions and bus stops is somehow going to revitalize the Lihu'e area. In my opinion, this is totally false. Nothing has been said in this Resolution or Plan where or if the business that left will come back. The giants like Costco, Walmart, Home Depot, Safeway, and others are located where they want to be and are not going to move back to the Lihu'e area. The central Lihu'e district is now for County and State operations like the Historic County Building, this one; the Kaua'i Museum; the State building; banks; credit unions; and all of the County-run offices for planning, driver's license, and permitting. These are the operations made for the downtown area. Our number one problem on Kaua'i is traffic for locals and visitors. This Transportation Investment Generating Economic Revenue (TIGER) grant plan only exacerbates that problem by slowing and stopping vehicular travel on Rice Street. As Council Chair Rapozo said, "Vehicles will just avoid Rice Street and use Ahukini Road or other streets and compound our traffic problems." Areas like the Kukui Grove Shopping Center and Coconut Marketplace with plenty of parking and stores will draw people, not like the Lihu'e business district. To think that people will come to Lihu'e to walk or for any other activity other than for government or banking business is a dream. We certainly do not need to spend sixteen million dollars (\$16,000,000) of our tax money for an experiment that can only fail. Those pushing this plan have yet to show

the taxpayers, who are paying for this dream, where a comparable operation has been successful, and by "comparable," I mean one on an island like Kaua'i with seventy thousand (70,000) people. When you want proof any plan being a success or failure, you look at the Kapa'a Bypass Road, which did take traffic off of Kūhiō Highway. It was a success until it got overused. It needs more alternate cane haul road open to do what it accomplished, or the contraflow lanes working every day showing that adding one (1) more lane will work. These operations have proven to be successful on Kaua'i, but why spend sixteen million dollars (\$16,000,000) on a project...

Council Chair Rapozo: Glenn...

Mr. Mickens: I only have one (1) more sentence and then I am done.

Council Chair Rapozo: One (1) sentence?

Mr. Mickens: That is all.

Council Chair Rapozo: How long is that sentence?

Mr. Mickens: Okay...on a project that there is no proven background for success.

Council Chair Rapozo: Thank you.

Mr. Mickens: Thank you, Council Chair Rapozo.

Council Chair Rapozo: You are welcome. I apologize. I was distracted. Who is the next speaker?

Ms. Fountain-Tanigawa: There are no further registered speakers.

Council Chair Rapozo: Okay. Is there anyone else wishing to testify on this matter?

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Council Chair Rapozo, I have a question for our Acting County Engineer.

Council Chair Rapozo: Okay.

There being no objections, the rules were suspended.

LYLE TABATA, Acting County Engineer: Good morning, Lyle Tabata, Acting County Engineer.

Councilmember Yukimura: Thank you, Lyle. Last night at a legislative forum for people who have disabilities, but we would like to call them, "People with possibilities and abilities." There was a question about crosswalks and whether the crosswalks will be designed to signal people who are blind that it is okay to cross. I just wondered if this TIGER grant project will address that in any way or even whether flashing lights can be developed with the crossing signal; I guess it is that bleeping that tells people who are blind that it is safe to cross.

Mr. Tabata: I will bring that information forward to the designers. The intent of the regulatory items that we have listed right now is so that we can have the designers design in one (1) direction and not look at any more options. The body will approve the regulatory changes for Rice Street and the other streets and then we will have them design to the changes. We will bring forward the items you have mentioned for the blind and possible rapid flashing beacons. The intent is to make everything that we design to Americans with Disabilities Act (ADA) compliant, and so I will bring it forward for the blind.

Councilmember Yukimura: Okay, that would be really good. Thank you. So what you are saying is that upon approval, assuming that this body approves the Resolution, you folks will be proceeding with the design of the project?

Mr. Tabata: The final designs for the project, yes.

Councilmember Yukimura: Are you under a tight timetable?

Mr. Tabata: Yes.

Councilmember Yukimura: Therefore, being able to start on the design will be important to you?

Mr. Tabata: Yes.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Any other questions for Lyle while he is up here? Lyle, I just had one (1) question and it is relating to the county match. The county match is what I guess is being portrayed as the "two million dollars (\$2,000,000)?"

Mr. Tabata: Yes, bond funded.

Council Chair Rapozo: Is that to satisfy the grant amount?

Mr. Tabata: No. We were told that if you put a match, our chances would be a lot better. It is only fifteen percent (15%) or just slightly under fifteen percent (15%). The normal county match for federal aid projects is twenty percent (20%) and we placed fifteen percent (15%).

Council Chair Rapozo: But that does not mean that that will be the limit of what the county will spend?

Mr. Tabata: Our intent is to stay within our budget.

Council Chair Rapozo: I know what the intent is and our intent is always good. I know what the rail's intent was on O'ahu and their intent was good. Many of our projects on this island when we estimate the cost, by the time it is built, it is significantly higher. I guess my question is if the cost of the project goes beyond whatever is beyond the grant amount...

Mr. Tabata: We do not have to put a match.

Council Chair Rapozo: Who is going to pay for it?

Mr. Tabata: We are going to work within our budget.

Council Chair Rapozo: Yes, but that may not be possible, Lyle, is what I am saying. You have what you want to do...

Mr. Tabata: The grant amount is fixed; that will not change.

Council Chair Rapozo: So anything beyond the grant amount is a responsibility of the County, correct?

Mr. Tabata: Yes.

Council Chair Rapozo: Okay. That was the question. Councilmember Chock, followed by Councilmember Yukimura.

Councilmember Chock: The grant was written with the fifteen percent (15%) match and I just want to clarify what I thought I heard you say was that that is optional?

Mr. Tabata: It was at the time, but we put it up forward, so it is counted as the total amount of the project.

Councilmember Chock: Will the grant be in jeopardy if the two million dollars (\$2,000,000) were not approved?

Mr. Tabata: Well, we will not have enough money to complete all of the planned projects.

Councilmember Chock: I am just trying to find out the worst case scenario. What would happen if the money was not approved?

Mr. Tabata: I need to revisit that. I cannot answer that at this time.

Councilmember Chock: Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: My question is similar to Councilmember Chock. In applying for the grant and stating that we would be contributing the amount, it was a commitment that the County made to the federal government, right?

Mr. Tabata: Correct, yes.

Councilmember Yukimura: And if we are not able to finish the project successfully, I would guess that it would jeopardize any future federal applications that we make.

Mr. Tabata: I would defer to Mr. Suga.

KEITH SUGA, Executive Assistant to the Mayor: Keith Suga, County CIP Manager. Good morning, Chair, Vice Chair, and Councilmembers. With regards to the funding, like Lyle mentioned, there was not a requirement for a match because of our designation, so when we put forward the application it was identified to us that to be competitive, whatever match we could bring to the table would be put into consideration in terms of the competitiveness. What Chair Rapozo and Councilmember Chock is bringing up is a good point in terms of as we develop this project, the Resolution here will provide a base guideline to which the consultants will design accordingly. As you mentioned Councilmember Yukimura, with regards to the flashing beacons or those types of considerations, that is something we can bring forward to the consultants and have that be options that is looked into. As we develop the construction design-build documents, which is something we could possibly have a list of additive alternates or that sort of thing. Therefore, we can assure that we can at least get the base contract awarded and if there are items that come within our budget, then we could include those items as well.

Councilmember Yukimura: But the fifteen percent (15%) that we have put on the table is part of the overall base contract, is it not?

Mr. Suga: Correct. That was the commitment that is ironed out in our project agreement with the United States Department of Transportation (USDOT) and the Hawai'i Department of Transportation (HDOT).

Councilmember Yukimura: I understand from Mr. Costa that our track record on Economic Development Administration (EDA) funds from post-hurricane, like our papaya disinfestation plant and other projects have affected our ability to get EDA moneys more recently. I am thinking that our performance of this project will influence future requests we have before the federal government.

Mr. Tabata: Yes, we are under, as Mr. Suga explained, a very tight schedule and our contract with USDOT included the matching funds. It is part of the contract that was signed with DOT to pull this project off, yes.

Councilmember Yukimura: But our commitment does not go beyond the fifteen percent (15%).

Mr. Tabata: Right.

Councilmember Yukimura: Council Chair Rapozo is concerned about additional costs, but any additional costs will have to come before the Council for approval, I would guess.

Mr. Suga: Absolutely.

Mr. Tabata: We are very aware of that, so the effects to which we design will be closely monitored to stay within the budget.

Councilmember Yukimura: Okay, thank you very much.

Council Chair Rapozo: Any other questions? Councilmember Kualii.

Councilmember Kualii: What is the time span for the project from start to finish? When will you start?

Mr. Suga: Currently, we have a hard deadline of June 30, 2017 to which we have to request federal funding obligation for the construction funds through USDOT. That means we have to have our thirty percent (30%) drawings completed, we have to have our environmental completed, and we have to have our design-build documents completed and ready to request that funding.

Councilmember Kualii: Therefore, actual construction will not begin until some point after June 30, 2017?

Mr. Suga: Correct.

Councilmember Kualii: And do you have a sense of when that is?

Mr. Suga: I think we anticipated around the ending of 2018, beginning of 2019, potentially is when construction can start.

Councilmember Kualii: Beginning of 2019. How long will it be after you start?

Mr. Suga: I think we are anticipating a year.

Councilmember Kualii: One (1) year?

Mr. Suga: Yes, for total construction. The project, because of the components, will probably be phased and once we get a schedule from the contractor, will better determine the duration.

Councilmember Kualii: As far as the grant, do you get all the money upfront or will you be getting it in pieces?

Mr. Suga: No. The June 30, 2017 deadline would obligate all of the construction funding.

(Councilmember Kagawa was noted as not present.)

Councilmember Kualii: You will have it planned to be under budget when you start, but as you move through; three (3) months, six (6) months, and nine (9) months, you will be able to track whether you are staying on budget or not. I would assume that as you get near to the end, you may have to alter your plans to stay under budget?

Mr. Suga: Like any construction project, that is the typical process. When we award the design-build contract, at that point we would have a contract amount that would be within budget. Surely, throughout the construction process, we would have to closely monitor the progress.

Councilmember Kualii: And if there are items that you want and the community want to include such as the flashing lights and the crosswalks that are accessible to the blind that is not part of the budget, could you not go after additional funding from other state or federal funds? For example, for that particular purpose, such as Safe Routes to School or what have you.

Mr. Suga: I think the idea here would be to try to include those opportunities within the contract as additive alternates or some type of mechanism like that. During construction, if things were to arise, there is a potential that additional county funding would have to be brought forth to this body for approval, if that was the case.

Councilmember Kualii: My final question is as far as all these federal funds and then the fifteen percent (15%) of the county funds, can we spend our funds last? Could we move along this project and I know it always takes longer and it goes over budget because that is how construction projects seems to be, but once in a while you have a good project that could come faster and under budget. If that is the case, if we were spending our money last, our committed fifteen percent (15%) and we were under budget, then we would be saving the county money.

Mr. Suga: I will double-check the project agreement that we have with USDOT in terms of expense of the funding if there is a correlation between the percentage of county funds and the percentage of federal funds that would be billed. I am not one hundred percent (100%) sure. At this point, we would have to double check.

Councilmember Kualii: Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: That is the direction of where I was going with my questions as well. Will you be asking to encumber all the funds on June 30th?

Mr. Suga: Yes.

Councilmember Chock: So the fifteen percent (15%) match as well?

Mr. Suga: Yes.

Councilmember Chock: Will you check to see if there is a possibility that you can actually ask for that in increments rather than all at once?

Mr. Suga: Correct, and what I hear is that as we draw or as the invoices come in from the contractor, whether we can expend the federal dollars first before our funds.

Councilmember Chock: Okay, thank you.

Mr. Tabata: I want to expand on that. Normally at the end of the term of a project when we get audited by the federal government, we need to show our expenditures accordingly, and whether it is in the front, middle, or end, we still have to show that we spent the amount that we said we were going to spend.

Councilmember Chock: Can the two million dollars (\$2,000,000) be derived from our grant sources?

Mr. Suga: Currently, the two million dollars (\$2,000,000) is approved in our CIP budget and that was the allocation to utilize for the match. I am not sure at this point if other funding potentials would be able to supplement that or supplant that.

Councilmember Chock: Thank you.

Council Chair Rapozo: I guess I want to make sure that the public understands. This is not to approve the funding. This is to approve the Resolution for the traffic changes and things.

Mr. Suga: Correct.

Council Chair Rapozo: How many design-build projects have we done? Both of you were not here, but...

Mr. Tabata: The County has done, I believe...

Council Chair Rapozo: The police station was one, I think the Kaiākea Fire Station was one.

Mr. Tabata: Waimea Wastewater Treatment Plan Upgrades, Hardy Street, I believe we have done at least a little over half a dozen; I believe seven (7).

Council Chair Rapozo: I know for the police station and what was designed and the intent when it started out, all of a sudden we had to reduce, reduce, reduce, cut this and cut that, and that happens typically if you want to stay within the budget because there is no budget that is going to be adequate. You are saying at whatever amount—fifteen million dollars (\$15,000,000), construction will start in the year 2018 or 2019, prices are going to be higher, construction costs are going to be higher, and then with all the changes that occur between now and then will be change orders that will have to happen. We all know that change orders is a reality and most of them come with an increase in cost. My only point or question is that it was represented here and I cannot remember who said it, but it was represented early on in these discussions that we would not pay more than two million dollars (\$2,000,000) and that is not true. If we do go over budget, the County has to pick up the tab. Is that not the truth? Is that not accurate? Whether it is county match federal money going into the account for this project, if we use up all that money, where is the money going to come from? The County, right? Again, I use the rail. That is a graphic example, but it is the same thing, right? Yes, you have to come back to the Council before we release the money or allow the money, but then you end up with the situation like the rail. What will we do? Do we tear down all those pillars and things and waste the billions that we already spent or do we manage to find more money? That is a big example and the point I am trying to make. It is not just the two million dollars (\$2,000,000). It can be higher depending how long this process takes and that we are basically committing to that project at whatever the cost is. That is not a bad thing, I am just saying that is the reality of it. That is how the system works. The feds will give you that much, you said you will give this much, if it goes beyond that, you are responsible. The feds will not give you more money, correct?

Mr. Suga: Chair, what you bring up is certainly a possibility. What we hope and I use the word “hope,” is through the design-build process that we can really look into not only the scope that is brought forward and maybe some of these additive items, but also try to lean on the contractor towards value-engineering type of solutions that could hopefully keep us within the budget we are in. Therefore, the design-build process would allow us also to try to do that.

Council Chair Rapozo: Being the realist that I am, I am just saying that as we get closer to the construction or completion and as we start running high on the budget, then the things like Councilmember Yukimura was talking about like the flashing crosswalks, “hey, that has to go, sorry. That has to go because we need to stay within the budget.” That is all I am saying. Things change and they can change quite drastically in this process with such a huge project. Any other questions? If not, thank you very much.

Mr. Tabata:

Thank you.

The meeting was called back to order, and proceeded as follows:

Council Chair Rapozo:
Kagawa.

Any further discussion? Councilmember

Councilmember Kagawa: Thank you, Chair. When you look at approving this Resolution, it is basically putting the TIGER grant into motion and giving the blessing to move forward, that this is the direction that the County will go for their taxpayers. I look at the pros and cons. The pros is that it will slow down traffic significantly. It will allow for sight visibility so it is much safer for walkers, bikers, and drivers, no doubt. Aesthetically it will be more beautiful, more inviting for businesses, because there will be a lot more on-street parking. The big one for me is that we will recognize thirteen million eight hundred thousand dollars (\$13,800,000) of federal grant moneys that will help to stimulate our economy, especially our local construction workers. I just had a construction worker tell me that they are almost done with Nāwiliwili Road and cannot foresee where the next major job will be. At least there will be a bright future there for a portion of our workers. When I look at the cons, the major con that I see is what will happen to traffic congestion for vehicles. According to the presentation that we saw, it will actually improve the flow with the...not two (2) lanes, Glenn, it is three (3) lanes. It will be a turn lane in between. We are going basically in areas that are high traffic, we have four (4) lanes, and it will go down to three (3) lanes. Whatever math I use, I do not know how that will improve traffic flow, but I am going to take the advice of our engineers who are engineers. They went to school for it, they studied it, I did not. We will see. I believe that traffic congestion, not to be a "Debbie Downer," but it will be significantly worse. I hope not. I know that the pros will happen. Those pros will work, which I mentioned, but as far as the con, my major cons is that I feel like traffic congestion will be significantly worse on Rice Street and I am concerned about that going forward. However, I will be supporting the Resolution. I am going to place my trust that I am hopefully wrong that it will not be significant. Getting thirteen million eight hundred thousand dollars (\$13,800,000) of federal moneys to our taxpayers on Kaua'i and our workers is significant. It is a huge accomplishment and one that is very difficult for any Councilmember to deny. A lot of us look at the big question asked nationwide, where does our federal tax moneys go? How do we spend it? You take out up to a fourth to a third of people's income in the middle class because of the federal income taxes plus the Federal Insurance Contributions Act Tax (FICA) or social security tax. For a family making eighty thousand dollars (\$80,000) a year, you are talking about a minimal of twenty-five percent (25%) out of their incomes going to the federal government. Then you ask the question, well, with a fourth of our taxes of our people in the middle class to poor being taken out of their incomes, how are we still going one trillion dollars (\$1,000,000,000,000) a year more in deficit? What is wrong? Do they have to take half of our paycheck and maybe we will not go a trillion dollars (\$1,000,000,000,000) every year? We have a huge spending problem in the federal government, but that is not our job here. Our job here is to try and garner whatever federal moneys we can so our taxpayers will know that they are getting something more, something more than we had yesterday. This thirteen million eight hundred thousand dollars (\$13,800,000) is something more than we had yesterday had we not gone for this grant. I just hope that as Council Chair has said many times, that perhaps going forward in the future we can get grant moneys that would not have this big question mark of what will happen to traffic congestion—

something that the public can totally agree on. I do not think this grant satisfies that need. Thank you, Chair.

Council Chair Rapozo:

Thank you. Councilmember Kaneshiro.

Councilmember Kaneshiro: I want to reiterate the TIGER grant is a Transportation Investment Generating Economic Recovery grant. It is not a traffic improvement or road improvement grant. Road and traffic improvements are a priority, but this is not the grant for it, unfortunately. The money is specific to this project and cannot be moved elsewhere, no matter how much we say, "We want the money to go on that road or this area." That is not a consideration. That does not have anything to do with the grant. The grant is specific to Rice Street and that is the decision we have to make. Do we want the money for Rice Street or not? It is not, "No, let us move the money elsewhere around the island." That is not possible. You look at the biggest "bang for the buck" and we are talking about a two million dollar (\$2,000,000) bond fund bringing in thirteen million eight hundred thousand dollars (\$13,800,000). A bond fund is not two million dollars (\$2,000,000) of cash. Again, if you look at our budget, we did not have two million dollars (\$2,000,000) of cash sitting around. A bond fund is in the CIP projects. A bond fund will cost us at two point four percent (2.4%), three of principal delay, approximately one hundred twenty thousand dollars (\$120,000) in cash a year. That is what we will be paying a year. How do we get a big bang like that? How do we get a bang paying one hundred twenty thousand dollars (\$120,000) a year for thirteen million eight hundred thousand dollar (\$13,800,000) project? If we put one hundred twenty thousand dollars (\$120,000) a year to a road project, I do not think it will get us very much. We can ask Mr. Tabata later, but I can almost guarantee it will not get us very much roadway. So, you look at what is the biggest "bang for the buck" and it is a big bang for our buck. What do we get with it? We get improvements, more parking along Rice Street, greater visibility, and more crosswalk opportunities. There was a great presentation on the wider crosswalks have the lights, the crosswalks that did not have lights, they moved the sidewalks closer so it was a shorter walk and more visibility for the drivers. We had lots of community input and very clear presentations. I think pretty much all of the questions that we had were addressed. We had very clear maps of what we were looking at. It was very organized on how we were able to go through it and I think that helped. Also, the community input. There were many opportunities for community input and community input was actually taken into consideration. If you look at a road such as Pua'ole Road where the citizens had concerns on it, they adjusted the plan. They adjusted the plan according to the citizens' concerns. I think it was a good plan. I think it is a positive thing for the island. I would have liked to see money for infrastructure such as water and sewer, but again, that is not what the money was for. Hopefully, we can look for money like that where if we are going to do major road improvements, we can find money to help improve our water and sewer in the area also. I think it is a good grant. I think it will improve Rice Street and I will be voting in support of it.

Council Chair Rapozo:

Thank you. Councilmember Chock.

Councilmember Chock: Thank you, Chair. I will be supporting the Resolution. This money is in the CIP budget and I think it will do us really good to

support investing economic development for this corridor. I am looking forward to the bigger vision of how it is we transition from the TIGER grant into actually getting businesses open and people generating energy around this area, and so I am hoping that we hear more about that vision as we move forward. I think this is a win, a win that we need to support and follow through on. I agree with Vice Chair Kagawa. I think the TIGER grant probably should be in very community that we have on this island and where that money goes is really the big question. I will not digress, but I think we probably spend it on military advancement more than anything else. I think we need to focus on what we have gotten and we have gotten an opportunity here to do better for Kaua'i, and I will be supporting this Resolution. Thank you.

Council Chair Rapozo:

Councilmember Kualii.

Councilmember Kualii: I think that this is an important infrastructure investment for the future growth of Līhu'e. Līhu'e is the seat of our government. It is the first place visitors see when they land here and arrive here. It is important that we show them that this is a place that is forward thinking and supportive of pedestrian and bicycle safety and the community that is well connected. As far as users, this is about the future. If we want to keep our open spaces open, then we need our future housing and development to concentrate near to where the jobs are and the shopping is and the restaurants are, so that people can walk to work, walk to eat and shop, and what have you. There are still so much potential for future housing growth in Līhu'e. We just had Kaniko'o at Rice Camp, there are all kinds of plans for future Grove Farm housing around the stadium area, and other future housing right here in Līhu'e. There are plenty open lands available for housing and other commercial development to support that housing, such as places like Walmart and what have you. Līhu'e can be a fully connected town and this is a big part of it where more people live and walk. When you have more people living and walking here, you are bringing in more economic activity, easily and clearly. We need those things in Līhu'e and we will have that with the projects like this. Why can we not go to events at Kaua'i War Memorial Convention Hall, go early, park, and walk a couple blocks to our favorite restaurant to eat, and then go to the event, and then afterwards maybe walk to our favorite bar right there. We never have to move our car. We just go home when the entire evening is done; Kaua'i War Memorial Convention Hall, the stadium, and even the fields at Elsie H. Wilcox Elementary School. There are plenty of places where a lot of bigger community and other events happen that people attend and they can attend those events and also support local business if we are able to just park and walk. The one thing too about land use in Līhu'e, I hope we do not build any more parking lots. I think we should use the land for housing and commercial development, schools, or what have you, as it grows. As far as parking goes, there is plenty parking already that has space and if we need more parking in the Kaua'i War Memorial Convention Hall, then we should build up. Build one more level of parking or two (2) more levels of parking, so that we concentrate the parking in the center area where people can walk out from there. I think this is a great project. I am so glad that we were able to win thirteen million dollars (\$13,000,000) from the federal government in a highly competitive grant process. This is a good start. We can use Līhu'e as the example for other major towns such as Kapa'a and Waimea and follow from there. Thank you.

Council Chair Rapozo:
Councilmember Hooser.

Thank you. Councilmember Yukimura or

Councilmember Yukimura: Thank you, Chair. I will be supporting this Resolution wholeheartedly. I appreciate the comments of my colleagues, which illustrate that this is a win-win-win-win. I appreciate the work of the Administration that have gone through it and all that has been done. As Councilmember Kaneshiro said, there was a lot of community input that was listened to, that was taken into account, the questions that we had were answered, and that is a sign that the project has been well thought out. This is an economic recovery and revitalization for Līhu'e and Līhu'e is our county seat. It is a place where we gather, for example, the Lights on Rice Street, and it really deserves to have the improvements that we are talking about and it is not that we do not want to think about the other places, there is no project that can be done everywhere. You do projects by site and certain places and we are doing it in Līhu'e with this project. The primary result of this project is going to increase safety and we have all said before that safety is the top priority. It is going to be safer to cross the street, it is going to be safer for cars because there will be more sight, but at the same time, it is increasing the parking on Rice Street and the traffic flow. It will be good. The improved flow will be up to a certain point. No arrangement of road will support unlimited growth in car traffic and so at some point we will reach capacity, but that is why we need to have transit improvements that will address some of the need for movement here in Līhu'e. The other benefits are jobs. We created many jobs in our Hardy Street Project. For over a year, there were construction jobs here. Another benefit is health. When people and children can walk safely to Elsie H. Wilcox Elementary School every day, it really will increase the health of our people. Last night when we heard from people with disabilities, they talked about the blind people using a cane; sidewalks really help them delineate where to walk and now on Hardy Street, they have a complete continuous way to walk. Yesterday when I was holding sign in Puhi, I met a couple that walk every day on the sidewalks and they talked about how much easier it is for them to walk and I think we have all noticed how many more people are walking because of the sidewalks. This is a project for the future. It is going to bring prosperity, health, and safety to Rice Street and I think it is something that we need to do to serve our people.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: I am also going to be supporting this and I want to commend the Administration for their assertiveness of going out and securing the grant and what they are doing. I share some of the concerns about what will happen to traffic, but overall, I think this is a good project that will really benefit Līhu'e and the businesses and the community. What I would like to do is ask the Administration in this County to turn their sights toward what I believe are urgent, pressing matters and that is the Kapa'a traffic corridor. We all know that grants come from different buckets of money. There are different federal programs. This one happened to be for these types of projects to improve the town core, improve walkability, beautification, and create jobs, but I suspect there are also grants available through the Federal Emergency Management Agency (FEMA) in other areas that perhaps we can look at. The traffic situation in Kapa'a is a disaster waiting to happen if we were to have a tsunami or any other type of disaster. There is no place

at all for people to go. They are stuck on that road and cannot get to higher ground. I think we should look at grants that are available to improve that situation. We are talking about safety, I do not think there is a bigger safety issue when it comes to transportation in that corridor. I have been in there before, sitting in traffic, looking out at the ocean during a tsunami warning with nowhere to go. It is just an issue that must be addressed now and if we do not have the opportunity or the money to do it, we should look to the federal government and other sources and treat it with the urgency that it deserves in terms of evacuation and protecting public safety. That is what I would encourage the Administration and the County. I applaud them on the TIGER grant and applaud their work in Līhu'e, but let us look toward how we alleviate the most pressing problem facing our transportation system today and that is the extreme congestion in the Kapa'a-Wailua corridor. Thank you.

Council Chair Rapozo: Further discussion? If not, I have always said everybody's position deserves to be heard on this table, so I happen to bring the opposing position. I look at this completely different than my colleagues. I respect everybody's position and I understand thirteen million dollars (\$13,000,000) is a lot of money. I understand if we do not do this, we will hurt our relationship with the federal government and I understand that it is going to put a lot of people to work a temporary construction job, I understand all of that. I also understand what Councilmember Hooser just said – we have some issues on this island that are...you talk about safety related, such as the congestion, which is not only on Kūhiō, but also on Kaumuali'i Highway. We got it all the way out to Hanalei. If we had a tsunami or tidal wave, those people have absolutely nowhere to go and that has not changed and it will not change until we take action. Supporting this simply because it is for thirteen million dollars (\$13,000,000) of federal government money and regardless of what it is going to do, to me, I think it is not the right way to look at accepting or not accepting projects. The crosswalks and sidewalks on this projects, I think is something we should have done a long time ago. I walked the other day with the White Cane Group and Eiwa Street is painted as a bike lane or pedestrian lane, but it is not safe. We are encouraging people to go out on a surface that is not safe. That was all done with the Hardy Street improvements, which is not successful. We have not enjoyed extreme success with Hardy Street, in fact, we heard some of the businesses are suffering because of the improvements, and what we heard from the Administration was, "Yes, we have to learn from our mistakes." The other thing is the additional cost to maintain that and the promise that it is going to cost two million dollars (\$2,000,000), but we do not know what the cost will be. I can tell you that it is not going to be two million dollars (\$2,000,000). It is going to be more than that. We might have to cut back a lot on this project and it is not going to look like what we are looking at today. The relationship with the federal government is important, of course it is, but I think this body's job is to make sure that the voices of the people are heard. Now, I know everybody received the same E-mails I received because when people send E-mails to counciltestimony.com it goes to all Councilmembers. No one can deny that the E-mails I received—all Councilmembers received. I will tell you that aside from the three (3), four (4), or five (5) E-mails that are in support of this project, the overwhelming testimony I received from the local residents was that they did not support it. I bring that voice to this table today and it is the losing voice, but I am going to bring it anyway. I spoke a little bit about the design-build contract. Councilmember Kuali'i brought up the scenario about going to the Kaua'i War

Memorial Convention Hall, being able to walk to your favorite restaurant, and afterwards go to the bar—that is all there today, but nobody does it. Because we are going to spend thirteen million dollars (\$13,000,000) and make nicer crosswalks or...the crosswalks are there today, the traffic lights are there today, the sidewalks are there today, but people's behavior is not going to change because we spent thirteen million dollars (\$13,000,000). We can all do that today. We can all walk Līhu'e Town today, but really, how many bicyclists have you seen on Hardy Street since we put in the lane? How many bicyclists do you see on Kaumuali'i Highway with that nice bike lane that is there in between traffic? Everybody uses the sidewalk, nobody uses the bike lane. This project will not be like that. The bicycle lane will be the travel lane. It is not going to be an individual lane; it is going to be a shared-lane. In other words, the car and the bike is going to be in the same lane—one (1) lane. Councilmember Kagawa, I think you were the only Councilmember that had doubts and say today, "I am not convinced that this change is going to improve traffic flow," and you said you tried all the math. I am not a math genius, but I can tell you that I have been all over this Country and I cannot imagine what the engineer was thinking or what computer program he used to say that we are going to reduce the lanes from four (4) to two (2) and improve traffic. I really do not know. I know there are a lot of "snake oil salesmen" around that can make you believe what they want you to believe and I do not believe that. When you reduce those lanes and not only reduce the lanes, all this time for some reason, I guess I did not pay close attention to the map, I thought they had a separate bike lane and now I realize that it is the same lane. You are giving up a lot and we just have to prioritize the projects and if we keep condoning that as a Council, it is not going to change. You will still have the fluff projects, the beautification projects and in the meantime, the highway congestions get worse. My light is red. With that, go ahead.

Councilmember Yukimura: I agree with Councilmember Hooser and the Chair that Kapa'a needs attention, and I just want to share the good news that I heard from the Mayor recently that DOT and the County have agreed to work on it in a multimodal fashion including transit and it is a potential federal grant application. Our performance on this Rice Street TIGER grant will be important to future projects that may be focused on Kapa'a. We need to do a good job and I am very delighted that the State and County will be working on a multimodal plan. I also want to say that there were temporary construction jobs, but there is also permanent jobs that are possible if Rice Street can come back with businesses, so we are talking about permanent jobs as well. I also want to say that last night, several Councilmembers and I agree with them, have said that we will support any kind of improvements that will support the people with disabilities. Therefore, if we had some add-ons that will make it better for the community of people with disabilities and possibilities, I am very hopeful that we will add those in to make it an even better project.

Council Chair Rapozo: Thank you. Like what Councilmember Yukimura just said, we will be providing jobs, but we hope to create new jobs. The Planning Director was here last week and he said, "We hope this will work." I think thirteen million dollars (\$13,000,000) or fifteen million dollars (\$15,000,000) is a lot of money for an experiment and that is all my position is. With that, roll call.

The motion for adoption of Resolution No. 2016-57 was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura	TOTAL – 6*
AGAINST ADOPTION:	Rapoza	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of County of Kaua'i, Councilmember Kagawa was noted as silent, but shall be recorded as an affirmative for the motion.)*

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-60 – RESOLUTION AUTHORIZING THE ACQUISITION OF A PUBLIC PEDESTRIAN BEACH ACCESS EASEMENT IN LAND REQUIRED FOR PUBLIC USE, TO WIT: A PUBLIC PEDESTRIAN BEACH ACCESS EASEMENT TO KUKUI'ULA BAY, KUKUI'ULA, COUNTY OF KAUAI, HAWAII, AND DETERMINING AND DECLARING THE NECESSITY OF THE ACQUISITION THEREOF BY EMINENT DOMAIN: Councilmember Yukimura moved to schedule a public hearing on November 16, 2016, and that it thereafter be referred to the December 14, 2016 Council Meeting, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: I think we all received the memorandum today. When the Resolution came over to us, it came over with a memorandum from the Planning Department saying that they supported this action and we received a corrected memorandum today that they are not in support of the action. Let me just read this because I think it is important before we take public testimony.

Councilmember Yukimura: Can we have the Planning Department up?

Councilmember Hooser: They just walked out the door.

Councilmember Yukimura: They said they are willing to answer any questions on Wednesday.

Council Chair Rapozo: Can I finish? We are going to bring them up, Councilmember Yukimura, my goodness.

Councilmember Yukimura: Thank you.

Council Chair Rapozo: Thank you. I just wanted to read this because I think it is important for some valid reasons and they are citing...you see what happens when I am interrupted; I forget where I was. Anyway, it was basically the

cost. The condemnation cost a lot of money and right now we do not have a lot of money. With that, is there any other discussion before I suspend the rules? Is someone here from the Public Access, Open Space and Natural Resources Preservation Fund Commission? I think we should get the presentation from the Public Access, Open Space and Natural Resources Preservation Fund Commission first, since it is their recommendation and then we can hear the Planning Department's position.

There being no objections, the rules were suspended.

JOSEPH FIGAROA, Chair, Public Access, Open Space and Natural Resources Preservation Fund Commission: For the record, Joseph Figaroa, Chairman of the Public Access, Open Space and Natural Resources Preservation Fund Commission. I apologize, Council Chair, I was not informed that we were going to be doing a presentation today, but this particular parcel has been in our previous presentations on our biannual reports to the Council. It has been recommended initially since 2005 and since 2005, it was presented initially to the Public Access, Open Space and Natural Resources Preservation Fund Commission from the Kōloa Community Association. Since then we, as a Commission, have been very supportive of acquiring this access point. We have always had community support for this. It was submitted to the Council back in 2014 and Mr. Hull can correct me if I am wrong.

KA'ĀINA S. HULL, Deputy Planning Director: Originally 2011.

Mr. Figaroa: 2011, okay. 2011 and then resubmitted again recently and then resubmitted again. Today, I was under the impression that I am here to basically make a stand based on the Commission's standpoint, which is, we definitely do support this public access and not just as a collective group, but the community really have a historical connection to this. A lot of the fishermen have come to testify, a lot of the community, just in general, supporters have come to testified. I do know that there are a few issues like there is no parking, but we have discussed options on possibly discussing with the National Tropical Botanical Garden on maybe dedicating one (1) or two (2) parking stalls for the public and they can walk and actually access that point from there. Currently, right now the access is blocked. The landowners has erected a concrete wall so no public can access it. You can access it via ocean, but definitely not through via land. In regards to the Commission, we definitely have been wanting to accomplish this for quite some time and I do understand that the Planning Department has a different view on it, but I wanted to stand here and speak on behalf of the Commission.

Council Chair Rapozo: Councilmember Chock and then Councilmember Kagawa.

Councilmember Chock: Thank you, Joseph for being here. Was it an unanimous vote amongst Commissioners to move on this?

Mr. Figaroa: Correct, yes.

Councilmember Chock: Thank you.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: This is the famous Hoban property access.

Mr. Figaroa: Yes.

Councilmember Kagawa: Is that how you pronounce it?

Mr. Figaroa: We pronounce it this way—"Hoban."

Councilmember Kagawa: I recall Councilmember Yukimura saying that she walked it one (1) day through the beach access that we talk about. There is a shoreline access around it and she said it was very rough and very dangerous.

Mr. Figaroa: Yes.

Councilmember Kagawa: Councilmember Yukimura also said that when the water is calm, it is okay to access.

Mr. Figaroa: Yes. I actually traversed it one (1) day as an adventure. You can access it through the shoreline, but the shoreline consists of boulders and rocks and there is a small sandy area, but yes, during the high tide, it is kind of a dangerous access.

Councilmember Kagawa: During high tide or if the waters are rough, then it is dangerous for an average person to access it?

Mr. Figaroa: Yes.

Councilmember Kagawa: Is it totally blocked off now? I wish we had some pictures to show. Is it newly poured cement?

Mr. Figaroa: I believe the road...what is the name of the road?

Mr. Hull: The road is Lāwaʻi Beach Road.

Mr. Figaroa: On Lāwaʻi Beach Road, on the ocean side, normally there is an access, but there is a natural concrete wall that is attached to the owners concrete/rock wall. From the highway, it is just one (1) solid piece.

Councilmember Kagawa: Is there a way to get around that?

Mr. Figaroa: No. You would be entering into someone else's property.

Councilmember Kagawa: Okay, it is private property and you could be cited for trespassing?

Mr. Figaroa: Correct, yes. For clarification, the only access is the shoreline.

Councilmember Kagawa: Last question. I am sure the Commission looks at the open space fund as a fund to spread out among the entire community as best as can. What is the estimated price tag that was brought to the Public Access, Open Space and Natural Resources Preservation Fund Commission to acquire? How much money were you told that it may take out of your open space fund just to have...not "just to have," because I know the community wants it. They have talked to me a lot about it. It is very important to the Kōloa community, but what is the price tag that is estimated?

Mr. Figaroa: According to my knowledge, the assessed value for the parcel is one hundred sixty thousand dollars (\$160,000) and you can correct me if I am wrong, Mr. Hull. The condemnation value is three hundred some-odd thousand dollars. Again, those are not confirmed figures. They have the figures with them.

Councilmember Kagawa: It is between one hundred sixty thousand dollars (\$160,000) and three hundred thirty thousand dollars (\$330,000)?

Mr. Hull: To clarify, the last assessed value that was done for that patch of land was about one hundred sixteen thousand dollars (\$116,000) to one hundred eighteen thousand dollars (\$118,000), but that is just the assessed value of the land itself. Since the original discussions began with the landowner, the landowner has indicated that they are not open for a sale of that piece of land for access easement. Above and beyond that one hundred and some-odd thousand dollars, you have to look at eminent domain proceedings and condemnation or potential damages paid to the landowner through the condemnation process. The County Attorney did an assessment back in 2014 where he anticipated that with condemnation, it could cost about three hundred fifty thousand dollars (\$350,000). The landowner has indicated back in 2014, that it would be more along the lines of

six hundred thousand dollars (\$600,000). That would go on through the condemnation proceedings where they would arrive at what potential damages are, but right now, the last dialogue we had is between the three hundred fifty thousand dollar (\$350,000) and six hundred thousand dollar (\$600,000) range.

Councilmember Kagawa: Wow, at six hundred thousand dollars (\$600,000) for just an access seems just outrageous, but at the three hundred fifty thousand dollar (\$350,000) range, I would say that to preserve public beach access to something that the locals had all their lives, I think it is commendable decision by the Public Access, Open Space and Natural Resources Preservation Fund Commission knowing price values. It is either we are going to continue having access or not. Because as Councilmember Yukimura even traversed it, that other access there is not consistent. The access has to be consistent and not if there is low tide, you can, and high tide, you cannot. That is outrageous.

Mr. Figaroa: When we, as the Commission, looked at the valuation we thought, "Wow, that is a lot." But when we settled ourselves down and we looked at the intricacies of the decision, we looked at it as if we lose all of these access points that are, of course as you all know as developers purchase, and as we start to lose these access points, in the bigger picture we are losing the heritage. That is of course priceless, but that is how we were looking at it. At the same time, too, because there is such a strong support from the community and since 2005, good grief, they have not gone weak on that support. As a Commission, we very much value that and see the comparison.

Councilmember Kagawa: Did the Commission ask questions such as, "What kind of value do you place on having fishing access for those that grew up all of their lives to fish in that area and having future generations to be able to fish in that area." What kind of price do you place on that, right? Obviously for some, the value of six hundred thousand dollars (\$600,000) means nothing because we are going to keep the access fishable.

Mr. Figaroa: Correct, yes.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: I wanted to clarify that the three hundred thousand dollar (\$300,000) to six hundred thousand dollars (\$600,000) estimate is just the land value.

Mr. Hull: No, the land value was about one hundred eighteen thousand dollars (\$118,000). The three hundred fifty thousand dollars (\$350,000)...

Council Chair Rapozo: But that was back in 2012.

Mr. Hull: Yes.

Council Chair Rapozo: So that is wrong today. Again, when you folks come here, not you, but whoever brings these estimates, it is 2012, which is five (5) years ago. The one hundred sixteen thousand dollars (\$116,000)...

Mr. Hull: We actually have gone through the process and are in discussions with the Public Access, Open Space and Natural Resources Preservation Fund Commission to get a reassessed value. It has been problematic because virtually all of the on-island assessors say they do not assess just easements. They do entire properties.

Council Chair Rapozo: But we can assume that it is no longer one hundred sixteen thousand dollars (\$116,000) because it was five (5) years ago. The property values in that area, I would assume, have gone up.

Mr. Hull: Well, to a certain degree some of the property values are not at the 2012 level because of the fact that you had the real estate boom at that time and with the economy decreasing. I would not say it is safe to assume that it is automatically higher now, but we have secured an assessor that is going through the process of getting that value.

Councilmember Yukimura: Excuse me, I think you mean appraiser.

Mr. Hull: I am sorry, appraiser.

Council Chair Rapozo: Let us just say one hundred seventeen thousand dollars (\$117,000) land value.

Mr. Hull: Excuse me.

Council Chair Rapozo: You are saying one hundred seventeen thousand dollars (\$117,000) land value.

Mr. Hull: Correct, off of that last appraisal that was done, it was one hundred seventeen thousand dollars (\$117,000).

Council Chair Rapozo: Okay. Therefore, the difference of the three hundred thousand dollars (\$300,000) to six hundred thousand dollars (\$600,000), what is that?

Mr. Hull:
via the condemnation proceedings.

The potential damages we would have to pay

Council Chair Rapozo:

Based on what they are claiming they lost?

Mr. Hull:
they had.

Not only the lost, but the negative impact that

Council Chair Rapozo:
include attorney's fees?

Right, that is the damages right. Does that

Mr. Hull:

No.

Council Chair Rapozo: No. I can tell you that the attorney's fees is going to push us well over the one million dollar (\$1,000,000) mark. I just wanted to clarify that. I am sorry. Councilmember Chock, Councilmember Kaneshiro, and then Councilmember Hooser.

Councilmember Chock: Mr. Hull, there is talk about the need for parking. I know that the access actually needs some work too, because there is a drop down into and there is a pipe that comes out of the there too. Can the open space fund be utilized to help secure the needs of this access if it was to move forward?

Mr. Hull: The fund can be used for additional improvements to be made and indeed as far as parking, the fund can also be used for acquisition of other lands for parking purposes.

Councilmember Chock: Have we done any cost estimates on those needs in addition to this?

Mr. Hull:

As far as acquisition of parking, no.

Councilmember Chock:
access?

Or the maintenance or improvement of the

Mr. Hull:
folks is primarily for the acquisition itself.

Not at this time. The Resolution before you

Councilmember Chock:
different though.

Okay. I have one (1) more question, but it is

Council Chair Rapozo:

Okay. Let us go to Councilmember Kaneshiro.

Councilmember Kaneshiro:

Is the wall blocking access right now?

Mr. Hull: Well, it is not just the wall. Traditionally fishermen or beachgoers would use that drainage easement to access the area with the landowner's somewhat willingness to allow people to traverse the easement. Since a new landowner had assumed ownership of that property, they are unwilling to allow people to use their property to access the beach. It is not as simply to say to removing the wall, because even if the wall was removed, this landowner is unwilling to say you can trespass on my property.

Councilmember Kaneshiro: How long has the wall been up there where people have not been able to cross it?

Mr. Hull: We can find that out for you.

Mr. Figaroa: To somewhat answer that, it has not been that long because when I initially came onto the Commission, we were actually able to see the actual access point from the road, but we can get the exact dates for you.

Councilmember Kaneshiro: My second question is what Councilmember Chock asked, yes, we can acquire the land, but I think we have to look at the big picture. How much is it going to cost us to do whatever improvements we need to do so that people can actually access it? Would we need to create another wall and have to make a paved area? I think we should know what the total cost of it will be and not just purchasing the land, but what else is our obligation to make it accessible. That would be a number that I would be interested in hearing of what it would cost to do the improvements needed for that actual access.

Councilmember Hooser: This is the priority of the Public Access, Open Space and Natural Resources Preservation Fund Commission, is that correct?

Mr. Figaroa: Yes.

Councilmember Hooser: How many other properties has the County acquired as a result of the work of the Public Access, Open Space and Natural Resources Preservation Fund Commission?

Mr. Figaroa: According to my knowledge, so far one (1).

Councilmember Hooser: How long has the Public Access, Open Space and Natural Resources Preservation Fund Commission been operating?

Mr. Figaroa: Nani?

Mr. Hull: Since 2005.

Councilmember Hooser: Okay. It has been ten (10) to eleven (11) years and one (1) property has been acquired. I think that is an important point to make and that this is a priority of the Public Access, Open Space and Natural Resources Preservation Fund Commission and has been for some time. Is this an existing drainage easement?

Mr. Hull: Correct.

Councilmember Hooser: And to the benefit of the County, the County has the right to improve the drainage easement?

Mr. Hull: Correct.

Councilmember Hooser: The County already exercises legal control, so the idea is to put the access easement over the same pathway. I would think that the landowner cannot build a structure, certainly, on a drainage easement, is that correct? I mean the fact that it is already an easement for drainage purposes significantly limits the value of that land.

Mr. Hull: I would have to double-check that.

Councilmember Hooser: I believe the County has the right to manage that property for drainage. I do not even know if a wall is legal because the wall would block the drainage.

Mr. Hull: Yes, because the drainage is actually underneath, it is subsurface. That is why I am saying I do not know right off the top of my head whether or not this particular easement can have structures on it.

Councilmember Hooser: Is there a culvert underneath the ground that carries water or a pipe?

Mr. Hull: Correct.

Councilmember Hooser: Can we get a copy of the actual drainage easement document?

Mr. Hull: Yes, we can get that for you.

Councilmember Hooser: And the document that we have here that shows the metes and bounds of the easement, this is just a proposal or is this the document for the drainage easement?

Mr. Hull: Excuse me.

Councilmember Hooser: Exhibit A, it states, "Footpath easement six feet (6ft.) wide."

Mr. Hull: Yes, that is existing.

Mr. Figaroa: For those of you that need a visual reference, we do have some visual references here.

Councilmember Hooser: Okay, that would be good to have. The proposed public access traverses what looks to be identically over the drainage easement.

Mr. Hull: Correct.

Councilmember Hooser: Which the County already owns?

Mr. Hull: The County does not own an easement. The County just has access to it.

Councilmember Hooser: Has the right to use it.

Mr. Hull: Depending on how the easement is created, it allows a particular party to access that site for whatever purpose the easement is.

Councilmember Hooser: Right.

Mr. Hull: The County does not own say the easement. The County just has access over it for drainage purposes.

Councilmember Hooser: Right.

Mr. Hull: The Public Access, Open Space and Natural Resources Preservation Fund Commission is recommending that funds be expended so that it could also be turned into an access easement where then the general public would have access to that area of the property that the property owner has there to access that area.

Councilmember Hooser: My point I am trying to make is that the drainage easement limits the use and the value, it takes away from the use and the value that the owner has, that is standard real estate law. You have a bundle of rights, they have less rights over that easement as we sit here today, so their

argument in terms of value should be diminished somewhat. Was the decision not to support this from the staff or the Mayor?

Mr. Hull: That was the Department's position. I do not want to characterize our position as not to support because initially when discussions were beginning to be had with the landowner, there was a potential for a friendly-acquisition. Under the friendly-acquisition, it would be less costly. The Department was supportive of the idea of having access here. After further discussions went on and it came to the conclusion that indeed any acquisition would have to be an adversarial acquisition given the costs of those. That is why we were saying that the access site is a wonderful access site and is to be commended, but given now the potential financial obligations for this particular access, that is where the Department said that we can no longer support the acquisition.

Councilmember Hooser: Is it the Department's position only to support friendly-acquisitions?

Mr. Hull: I would not characterize it that way. We are just saying in this particular position, we do not feel that the expenditure of the funds is commiserate to the public interest served.

Councilmember Hooser: Okay. Thank you. I have some other questions, but I will pass.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Do you have a current appraised value and as I ask this, I am trusting that the County Attorney feels this discussion can be in the open?

Mr. Hull: We are going through the process of getting a current appraised value of the easement.

Councilmember Yukimura: So, you do not have one right now and the one (1) in 2012, was it a Yellow Book appraisal?

Mr. Hull: An appraiser was hired and was contracted out to do the appraisal, yes.

Councilmember Yukimura: In your memorandum dated October 18, 2016, you say, "We understand access remains an issue at that area, particularly for fishermen, and will continue to work toward establishing some type of alternative access." What type of alternative access are you looking at?

Mr. Hull: There are other ways to look at other properties potentially as well as there is somewhat of an issue of the wall that is on the lateral access side whether or not that is potentially breaching into the shoreline, which would essentially be State jurisdiction. We are having discussions with the State as well.

Councilmember Yukimura: As I recall correctly, when I accessed the Hoban property site via the Spouting Horn parking lot, I went down and walked along the rocks, I could not get to the beach without crossing over private property. I actually went up and asked permission to cross over; I guess they were renters or vacation renters. I asked if I could cross over the lawn and then walked back down onto the rocks, and then get to the beach. I do believe the lateral access maybe blocked illegally and is that what you are referring to?

Mr. Hull: I am not quite sure. The potential for the existing property seawall that we are looking at, that may be blocking lateral access, but we are discussing that with the State on whether or not that is an accurate assessment. The lateral access actually is not from Spouting Horn to be clear. I believe there are federal prohibitions from people accessing it via the Spouting Horn route. The lateral access is actually from Kukui'ula Harbor.

Mr. Figaroa: The "ocean."

Councilmember Yukimura: The "ocean" meaning you have to swim.

Mr. Figaroa: That is how I had to access it; via kayak or walk over boulders.

Councilmember Yukimura: I did not see any "No Trespassing" signs to go on the very edge of the fence at Spouting Horn and then go down. That was the only way I could see by land and even that...so actually there may be right now no lateral land access to that beach, if what you are saying is true.

Mr. Hull: Yes, and do not get me wrong Councilmember Yukimura. The Department is in agreement with the Open Space Commission that it is a priority access and would serve a lot of the community particularly the south side area just given the cost we have a bit of concern.

Councilmember Yukimura: There is an issue also of caring capacity of that little beach. If forty (40) people all went there, I do not think you could have a pleasant experience. I do not know how you would manage numbers there. Fishermen, yes, and I love the idea of parking across the street with one (1) or two (2) parking stalls, fishermen going down the access and going fishing makes a lot of sense. You also say that, "Along with the State's efforts, the Department will carry

on discussions with the landowner to seek non-condemnation resolution concerning access.” Even in the process of proceeding on this condemnation path, you think there can be discussions about non-condemnation resolution?

Mr. Hull: We could be hopeful for it. This particular landowner, at least right now, is unwilling to engage in a friendly-acquisition, but perhaps if the property was sold and the new landowner may be open to a non-adversarial acquisition.

Councilmember Yukimura: Do you know what the concerns of the landowner are?

Mr. Hull: I did not have that discussion myself, the previous County Attorney did, but as I gather it, it was just the overall impacts of the public now traversing through their property and the impacts that it will have on their privacy.

Councilmember Yukimura: But we are talking about the public being on the public part of the beach, right? We are not talking about people accessing their lawn, we are talking about...

Mr. Hull: We are not allowing them access to their property, but so to speak, the easement traverses their property. Their concern was that the public would be traversing that section of their property, which recently they were not.

Councilmember Yukimura: Is there not a hedge? When I saw the access, there was not any real access to their lot. It was higher because you are coming down the drainage, you come lower, and you cannot really get onto their lawn, at least from the access. Their wall is very close to the beach and there are steps for them to get to the beach.

Mr. Hull: We can all have our...

Council Chair Rapozo: It really does not matter what their reason is. It could just be, “I do not want it.”

Mr. Hull: Yes.

Council Chair Rapozo: And it is just sad.

Councilmember Yukimura: And that is when we condemn, but if there is a way to protect their privacy, but allow people to what the public is entitled to access,

then maybe that is where we try to find a common ground. Addressing their concerns, but allowing...

Mr. Hull: If the Council decided to move forward on say approval of the Resolution, I would imagine it would come out during the negotiations between the two (2) attorney's parties.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Do you have a follow-up on that?

Councilmember Kualii: Yes.

Council Chair Rapozo: Okay, go ahead.

Councilmember Kualii: Mr. Hull, you said something about, "The way from Spouting Horn federally prohibited," what is that about because it seems to be a bit of a trail along the coast?

Mr. Hull: I would have to get back to you on that, Councilmember Kualii. As I recall, there is some type of federal prohibition on accessing that area. I do not know if it is because of a particular preserve or a particular land, but I would have to get back to you. I do recall there is some issue and there maybe even some signage up there currently restricting due to federal prohibitions.

Council Chair Rapozo: The other thing you can do is change the Resolution and make it two (2) lanes with a parking lot with a nice little restroom facility next to their property, and then you give them the option of, "Do you want 'A' or 'B'." Councilmember Chock.

Councilmember Chock: I have a follow-up from Councilmember Yukimura's question about the wall and its encroachment. If I can remember, it is almost a year now that we had that same discussion that there may be an issue and I hear that we are still in discussions, so I want to know where are we in discussion? Do we need to have a survey done in order to determine if it is encroaching?

Mr. Hull: We are basically listening to the State on that one because even if the County wanted to assist the State in its analysis and findings to do a survey, we would have to get permission of the property owner to access their property in which I would imagine the property owner would say, "No, you are not accessing my property." It is a State issue.

Councilmember Chock: Is the State active on it? Is it something that they want pursue?

Mr. Hull: We know that they are aware of the situation, but I cannot comment any further on that.

Councilmember Chock: Potentially this would create a good access for people to get to the beach, is that correct?

Mr. Hull: Yes.

Councilmember Chock: My question on process is when we were talking about this last year, we were in the mix of creating some rule changes to the process. Has those rules been utilized in us being here today for this item because I understand there were two (2) tracks that were created? I want to know the outcome of that based on your perspective and the Commission's perspective.

Mr. Figaroa: Thank you for that question. It has been enacted recently, but a lot of these things that you all are asking for has been, according to my knowledge, provided to the Council. We do a survey. We did do an assessment. We had all these things done and it has been present, but unfortunately, there has been no moving forward with any concrete decisions on it. We, as a Commission, talk about the perspective and we are evolving with all these rather than just being a recommending body, we are evolving to all these rules and support. I, of course, have to management the frustration at times with the Commissioners and myself that we would like to move forward with something, especially when at the end of the day we look at the books and we have acquired one (1) property since the inception of the Commission. That being said, in talking about this particular Hoban access, it was brought up to our attention and in a way this sort of answers your question that you had earlier. There is a wall that protects the privacy of the private property, but it was brought up to our attention in previous discussions before Mr. Hull came onboard, that the owner perceived that the clients or guests who stay at the property knew the public was accessing or had access to the side of the property, that his value would go down. That is perceived. Nonetheless for us in the end, we just want to move forward, but with some answer; a "yes" or "no." All of the elements are together and what happens too as time goes on, things expire and assessments are no longer valid. To the Commission, our frustrating part is we are actually wasting more money doing our due diligence then actually acquiring the property. I just want to mention that. That is what we have been dealing with.

Councilmember Chock: Does the Commission intend to submit other properties along with this Resolution in the near future?

Mr. Figaroa: Yes, we have actually submitted numerous properties every time we have done our biannual reports and so forth we have submitted several property every time. Because of the new implementation, I guess everyone is finally getting on the same frequency or the same page, but that is what we do we submit properties all the time and then we hand it over to staff and the Department to do the implementation and the package so that when we present it here, it is an acquisition package. That is what it is supposed to be, according to my knowledge.

Councilmember Chock: Okay.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: I would like to put up the map of the drain. Where is the access in proximity of that drain? Is it right above the drain?

Councilmember Yukimura: To the right.

Mr. Hull: It would be right above the drain.

Councilmember Kagawa: Was that where the access was way back when the fishermen had access prior to this?

Mr. Hull: Essentially, that is what the fishermen were traversing.

Councilmember Kagawa: Right over the drain area?

Mr. Hull: Yes.

Councilmember Kagawa: Was it private property that the fishermen used to walk over through it?

Mr. Hull: Yes.

Councilmember Kagawa: I heard some discussion that possibly looking at large sums of money to improve what would be that access there and obviously we need to cut trees, maybe establish a barrier for the property owner and the walkers so that the walkers know where the boundary of the trail. As far as talking about having it ADA accessible, is there acknowledgment that some areas are not feasible to make an area ADA? For example, if we ever acquired access behind McBryde to go fishing at Big Flat, it would be ridiculous to say, "We are going to improve the area, make access, and make it ADA." Are you going to put an elevator? Seriously, some

areas are just not meant for ADA because it is a danger for the person and it is not feasible to do, right? Do you understand that?

Mr. Hull: Definitely. Even through the accesses that area essentially garnered through the subdivision process, the ADA improvements are not mandated or necessitated. I do not want to comment any further. I will defer to the County Attorney on the legal items.

Councilmember Kagawa: Okay. So, we would be acquiring the area right above the drain because we do not own that land above the drain that is the County drain.

Mr. Hull: Currently, it is a drainage easement meaning the County would have access to for drainage purposes only, but we do not know it per se and therefore we cannot give the public access to it. Either we would have to lay an additional easement or purpose the property outright so that we could say it is open to the general public.

Councilmember Kagawa: Is that common that we have a lot of drainage easements on private property?

Mr. Hull: That is fairly common with drainage easements, water easements, and electrical easements. Kaua'i Island Utility Cooperative has electrical easements and only they can access those easements for maintenance purposes, so to speak. The County can only access certain easements for say water issues or drainage issues.

Councilmember Kagawa: Okay. I thought that we try to put easements on our property that are our *kuleana*, I guess. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Do you have a photograph of the wall?

Mr. Figaroa: We do right here.

Councilmember Yukimura: Can we show that? The wall itself is not interfering with the drainage, right?

Mr. Hull: Not to my knowledge.

Councilmember Yukimura: It is not interfering with the purpose of the present easement and it is on their property. Do you have a close up of the wall?

Mr. Hull: The wall goes around the property. This is not a specific image of the wall over the easement.

Councilmember Yukimura: Go back to the aerial image. Can you point out where the wall is from the road?

Mr. Figaroa: Do you see that indentation?

Councilmember Yukimura: Is it to the right?

Mr. Figaroa: Yes.

Councilmember Yukimura: Please point out the Hoban property.

Mr. Hull: There is the house and the pool. The easement is right there.

Councilmember Yukimura: Okay, thank you.

Council Chair Rapozo: Councilmember Hooser.

Councilmember Hooser: It looks like we have two (2) beachfront mansions.

Mr. Figaroa: Yes.

Councilmember Hooser: And we are asking for six feet (6ft.) between them so fishermen can go fishing. That is certainly what it looks like to me. This is the priority of the Public Access, Open Space and Natural Resources Preservation Fund Commission who has only done one (1) in eleven (11) years. How much money is in the open space fund?

Mr. Hull: I do not have that figure, but a little over five million dollars (\$5,000,000).

Councilmember Hooser: We are sitting on five million dollars (\$5,000,000) and we have not done anything in ten (10) to eleven (11) years, and this is their priority. That certainly speaks to the position that I would like to take on this. It was also mentioned that the Public Access, Open Space and Natural Resources Preservation Fund Commission had submitted other recommendations, how many of those have gotten to the Council?

Mr. Hull: They are with the Council right now.

Councilmember Hooser: Pardon me?

Mr. Hull: It was submitted in...

Councilmember Hooser: In terms of a Resolution like this.

Mr. Hull: No, the biannual report was submitted back in April.

Councilmember Hooser: But we have a resolution before us.

Mr. Hull: As a specific resolution, this is the other one, correct.

Councilmember Hooser: And it sounds like this was an accidental submission. The Administration submitted it with a letter of support, but they did not really mean the support.

Mr. Hull: No, it was not an accidental submittal. It was the intent of the Public Access, Open Space and Natural Resources Preservation Fund Commission to have it submitted to you folks.

Councilmember Hooser: Okay, thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Of those others that are considered priorities by the Commission, are there any where there is a willing owner and where if we do not do it, it will be foreclosed forever?

Mr. Figaroa: Right now with that exact criteria, we do not have. Right now we have a few willing landowners, but then the Commission had come to the decision for example the Evslin property out on the western side of the island, when we looked at all of the things surrounding it and what the community's support was, the Commission decided to take that off the list. When we presented to the community, the community said, "We already have a beach and we already have other places," but on that property there is *iwi* that already is there and we would not want to touch it. It is also adjacent to a State parcel as well.

Councilmember Yukimura: In other words, in assessing each of these other possibilities, you are saying that this is the top priority of the Commission at this point?

Mr. Figaroa: Yes, correct. We have done a list of properties if you refer back to the previous reports, we focus on different parts of the island as well, but right now because this has been such a longstanding item on our list, this is the first and we have decided to go ahead and submit.

Mr. Hull: To that question also Councilmember Yukimura, I can think of at least two (2) off the top of my head on their list that was submitted to you folks that has potential willing landowners. The reason why there is no specific resolution and push for you to move on that is because there are still a few things to be resolved and one (1) there was a title cloud that appeared when the title search was done and the other, they are still working out the ownership. On that one a bunch of owners transferred over to one (1) owner and they are just waiting for the documents to be finalized before we can entertain further acquisition negotiations, but they are close, I will say.

Councilmember Yukimura: Is there an assumption that when those things are ready, even if there is not enough money in the fund, you will access other moneys in order to make it happen so that spending one million dollars (\$1,000,000) will not stop those other priorities from happening?

Mr. Hull: I do not know if I can answer that per se because of the fact that we do not have specific cost estimates on them. We have close ranges, but...

Councilmember Yukimura: Well then you should be able to know whether it is all going to fit within a five million dollar (\$5,000,000) budget or not.

Mr. Hull: That is the thing. There are on array of different properties that were on the priority list that was submitted to Council and some have ranges, but say if every single property on that list were acted on today, no, there is not enough money in the fund to fund all of those projects.

Councilmember Yukimura: Well, you would have to factor in the timing, the potential timetable, so if next year you think you will be able to come before the Council then you are going to be needing this much money. You will have another year's addition of the money from the real property taxes because of the Charter Amendment. I hope somebody is thinking about these things.

Mr. Hull: Definitely.

Mr. Figaroa: Yes, I hope so as well, that the staff is thinking about that. One of the things I do like to mention is there was one (1) property and I believe I came a few presentations ago, but due to timing, we had lost the opportunity. I believe it was near the Po'ipū Beach Park.

Councilmember Yukimura: Adjacent to Po'ipū Beach Park.

Mr. Figaroa: Yes, and because things were so lagging, the owner sold it.

Councilmember Yukimura: We lost it.

Mr. Figaroa: Hopefully our process is faster.

Councilmember Yukimura: Yes.

Mr. Hull: And I can speak to that because among other things, like that property as well as some would allow the confusion and delay when this was initially submitted over to you folks, I will acknowledge the fact that there were a lot of missteps. Since that time, Nani, myself, the Office of the County Attorney have worked with the Public Access, Open Space and Natural Resources Preservation Fund Commission to actually pass rules that clearly lay out what the roles of the Department are, what the roles of the Commission are, and established timelines on the Department to get things to them, as well as timelines for them to get things to you folks. Those are recently adopted and we are very committed to the new process and it looks like it should clear away a lot of the cloudy-type of approach and nebulous approaches that have been happening just because both parties were unsure of their roles in the process.

Councilmember Yukimura: So that is very good that you had that clarification and the real test will be that we do not lose properties because of lack of action in a timely way.

Mr. Hull: Yes.

Council Chair Rapozo: Councilmember Chock and then we will take our caption break.

Councilmember Chock: This might be a question for the County Attorney. My question is about access to our culverts and pipes. Do we have to ask for permission to get access to it? I do not know who you folks would get over this wall?

Council Chair Rapozo: Can you answer that in three (3) minutes? Okay.

MAUNA KEA TRASK, County Attorney: *Aloha*, for the record, Mauna Kea Trask, County Attorney. The term of any easement is determined by what it says

and I do not have it right now, but I do understand it is for underground drainage purposes. Practically for this property, there is actually a wooden gate by the wall, so the County could access it. Again, it is a pipe and if you look at the picture again, it was one (1) of those big metal corrugated tubes and so the owner can use his or her property as long as it does not negatively affect the County drainage easement. In that case, the owner cannot plant trees that have large roots over it because the roots would go down and pierce it and affect the drainage. Other than that, we cannot expand or go beyond the terms of that easement, so it would be limited. I think the access would be a gate, is what I understand it to be.

Councilmember Chock: Okay.

Councilmember Hooser: I have a brief follow-up.

Council Chair Rapozo: Go ahead.

Councilmember Hooser: Can we get a copy? It should be fairly easy to get a copy of the easement. Do you have one (1) now?

Mr. Trask: I do not know, but I am sure it could be located though.

Mr. Figaroa: Is it in the Resolution?

Mr. Trask: Maybe on the break we can make copies for you.

Councilmember Hooser: Okay.

Council Chair Rapozo: Councilmember Kualii, how long is your question? Your question is long? Okay, we will take a ten (10) minute caption break at this time.

There being no objections, the Council recessed at 10:31 a.m.

The meeting was called back to order at 10:41 a.m., and proceeded as follows:

Council Chair Rapozo: When we left off, Councilmember Kualii had the floor.

Councilmember Kualii: This may take some work. Knowing that we only have four million dollars (\$4,000,000) to five million dollars (\$5,000,000) in the account and knowing that we are trying to serve the entire island, I think it is important that we know how much something actually cost so that what we approve

is getting our biggest “bang for our buck.” Instead of saying, “It has been so long we need to do something right now,” if we do something right now and it is not cost efficient or whatever, if we are not really getting the biggest “bang for our buck,” then we are losing out on future accesses. In that vein, can you tell us or can you go and find that out and come back to know how much time it would take and what would it cost for these different options, specifically with this Hoban property? The option of what we are asking for today and Chair had said he thinks with the lawyers and everything, he feels that it would cost over one million dollars (\$1,000,000), so with all the pieces, what would it really ultimately cost? But also you talked about establishing alternative access and for that alternative access, even though you are pointing to from Kukui‘ula Harbor, what about the west side from Spouting Horn. There are two (2) other options, what would it take if we were to approach the federal government or what have you, and how much time would that take and what would it cost for both of those options. We are already talking about three (3) options and then you mentioned non-condemnation resolution. If that means working with the current Hoban property owner to get back to the place where we were at one (1) time, because you said that at one (1) time it was friendly, and now we are looking at condemnation. By making this discussion with the landowner to seek non-condemnation resolution, you are stating that that is possible still. Therefore, how much time will that take and what will that cost? To me, it seems like we have four (4) different options just for this one (1) particular consideration and wanting to get the biggest bang for our buck with four million dollars (\$4,000,000) to five million dollars (\$5,000,000), we should know as best as you can estimate what the time and cost would be.

Mr. Hull: Councilmember Kuali‘i, while we support the access site, we are not supportive of the overall potential cost; therefore, we are laying out other potential avenues that we can continue to pursue. Whether or not those pursuits will be fruitful in the near future I can say more than likely not in the near future because of the fact that some of them are contingent upon what the State is looking at as far as whether or not there are any encroachments on the land. As to pursuing a friendly acquisition, at this time the current landowner says, “No, I will not partake in a friendly acquisition.” If the Council decides not to adopt the Resolution, the Department is saying that we will continue to look at those avenues, but as far as it happening in the near future, I will say that it is not expected or anticipated happening in the near future.

Councilmember Kuali‘i: Can you define in the near future?

Mr. Hull: Within the next year or two (2). Concerning the condemnation proceedings and the specific figure that can be put on that, that is essentially what the Resolution is doing. Because the landowner is unwilling to partake in a friendly acquisition, it would have to be, so to speak, an adversarial acquisition and condemnation. The Resolution is actually authorizing the Office of

the County Attorney to begin those condemnation proceedings and it is in those condemnation proceedings that the overall cost is negotiated, essentially. That would have to come out of the Office of the County Attorney going through the very proceedings that you folks are discussing today.

Councilmember Kualifi: Based on the one (1) example from the past was condemnation as well?

Mr. Hull: Correct.

Councilmember Kualifi: Based on that and other knowledge that we have, if we were to move this Resolution and begin condemnation proceedings, while it is the proceedings that will determine what the cost is and easily it could be more than one million dollars (\$1,000,000), do we have a sense of what the time would be? This Resolution would mean that it would start immediately and so how long could condemnation proceedings take?

Mr. Hull: I would have to defer to the County Attorney on that one.

Council Chair Rapozo: Look at the Sheehan property. That thing passed a long time ago and we are still in condemnation proceedings. Let me put something in perspective here because I am reading through the communications. The entire property was assessed in 2014 at three million five hundred thousand dollars (\$3,500,000) and we are going to spend one million dollars to get a six foot (6ft.) stretch is insane. No disrespect to the Commission because I think like you, it is a great acquisition, but the planets have not lined up. We may as well kick in another two million five hundred thousand dollars (\$2,500,000) and buy the property and put a nice affordable family on the beach in Po'ipū. I am being facetious, but in actuality, we are going to spend over one million dollars (\$1,000,000) to buy a six foot (6ft.) wide walking path at one-third of the property's value. That is how I look at this. It is frustrating. Whether or not the condemnation process will get that price down to a realistic or reasonable amount, the lawyer's fees do not change because the property value has decreased. That is something we have to think about when you look at the total picture, the total property, beautiful beachfront Po'ipū property, and we are going to pay one-third of that for a beach access. I will be curious to see how this discussion moves forward as we go through the process. Any other questions for the Administration or the Commission? If not, I know Councilmember Kualifi asked for some responses. As you heard the item will be on the December 14th Council Meeting. It will probably go to a Committee to have the discussions in the Committee.

Mr. Figaroa: I have one (1) question. When the Commission or the Department submits, will the Department be able to submit alternative options as a Councilmember asked for?

Council Chair Rapozo: What is on the floor and what is going to be voted on is the Resolution for condemnation.

Mr. Figaroa: Okay, got it.

Council Chair Rapozo: There will be no opportunity for us to change that.

Mr. Figaroa: Okay.

Council Chair Rapozo: The options as Councilmember Kualii is talking about is if we should go with the Resolution or do we kill the Resolution and go with some of the other available options. No, this is a Commission's Resolution so if it changes, it would have to come from your Commission.

Mr. Figaroa: Okay.

Council Chair Rapozo: Thank you for being here. I know it has been a long, long five (5) year process. Please stay in the meeting, as there may be more questions as we progress through this.

Mr. Figaroa: Okay, will do.

Council Chair Rapozo: Do we have any registered speakers?

Ms. Fountain-Tanigawa: We have one (1) registered speaker, Anne Punohu.

Ms. Punohu: *Aloha*, my name is Anne Punohu. Before I get "stink eye" from everybody, I am actually in favor of this acquisition. I am in favor of the process. I am in favor of what the Commission is doing. I absolutely agree with what is going on. I have actually been to the area, but my point that I am trying to make, which probably did not hit its mark and I put my foot in my mouth all the time. I think in a roundabout way, what I was trying to do is show how the original process of the Great Māhele continues to be decimated by this modern process. When we are looking at this Resolution it immediately gives somebody the impression that, "Wait, look, it is the Māhele award. Yes, Kānehoa," but that is not true. It is just how modern real estate calls our lands by the Māhele and thank you to Mr. Trask for explaining it to me a little bit better. I am trying to say that if this land was still under the control of the heirs of Kānehoa, we absolutely would not be sitting here today, there would not be owners who took the opportunity to get this land from somebody who had their right to it who was Native Hawaiian who then built themselves a lovely mansion with a swimming pool, who is trying to hold this County hostage for a small

piece of land, which is the most un-*aloha* thing I ever heard of in my life. To the point where the Planning Department is not sure if they need to drop this situation because it may just be too much for them. Where the community has been denied the right to safe passage to a place that they should traditionally had all along. To this family who is here, who enjoys the land of somebody else who was given it as a gift from their own king, now enjoys their right to enjoy the property and no one else on Kaua'i can. I just wanted to be very clear as to where I stood on this issue. You can see the holistic picture of the nightmare of what occurs daily in the State and in this County. We have an opportunity to be proactive and I think we should take it no matter what is cost, but I think the cost of the family should be nothing less than embarrassment. *Mahalo.*

Mr. Mickens: Thank you, Council Chair. For the record, Glenn Mickens. I want to agree with what Council Chair is saying. It is insanity to have to think of paying one million dollars (\$1,000,000) for a small piece of property, but I want to agree with Anne too. It appears that when this property was available, the person wanted to build there, we should have had the right to go ahead and have that piece of property for access to the ocean. We have it all over the island, so I do not know how this happened where fishermen use it all the time and they are entitled to, but right now we are really at an impasse. The person has the private property, condemnation is going to cost more than the one million dollars (\$1,000,000) like what Council Chair said with the lawyer's fees and everything. The money is just going to escalate. I do not know what the solution is going forward and maybe we can get out of this thing, but at this stage of the game, it is wrong to even think about having to spend that amount of money for a little path that people should have access to. Thank you.

Council Chair Rapozo: Anyone else wishing to testify? Seeing none.
Further discussion. Councilmember Hooser.

There being no further testimony, the meeting was called back to order and proceeded as follows:

Councilmember Hooser: I want to commend the Public Access, Open Space and Natural Resources Preservation Fund Commission, number one, for the work they have done. It must be very frustrating to have a Commission working for ten (10) years and nothing come of it. I was the Councilmember who introduced the charter amendment, which created the open space fund some twelve (12) years ago and realizing only one (1) property has been acquired that entire time is disconcerting. When I was in the Senate, I introduced and passed into law a provision that makes it illegal to block public access and there is a public fine of two thousand dollars (\$2,000), therefore issues of public access is near and dear to my heart. I will never forget Larry Rivera who is much revered in our community as an icon, came to me one day and said, "Gary, I cannot go fishing anymore." I asked him, "What do you

mean?" He talked about a place he used to go to when he was a child, growing up to go fishing, and now there was a house built there with a wall. It was a different location, but it really struck home with me how important preserving access to these special places are. Can we put the picture of the wall up again? The picture that showed from the distance of the two (2) houses on the beach. With all due respect to everyone else, I do not believe one million dollars (\$1,000,000) is necessarily going to be the cost. If one million dollars (\$1,000,000) is the cost, I think in the long term it is worth it, but it will also make the cost of that property fifty million dollars (\$50,000,000) in terms of the tax assessment, so the County will reap the benefits of that, if the property is tax assessed properly. I believe I heard the figure of one hundred sixty thousand dollars (\$160,000) plus legal costs. The law requires us to pay fair market value and I think we should pay fair market value for the impact of this property. To not pursue access because these folks have more money than we do, I have a hard time with that. I am confident knowing that members of the Public Access, Open Space and Natural Resources Preservation Fund Commission, for years now, have looked at this closely, looked at their budget, looked at the competing properties, talked to people in the community and fishermen, and come to the conclusion that this is the priority. This is where they believe will be well spent. The legal costs, I would hope that the County could absorb them in-house and that the County Attorney could handle that, but this is a unique and special piece of property. If we can get it on the screen real quickly before my time runs out, I think it is a point that I would like to make. I would encourage the Commission and this Council to look at a ten foot (10ft.) easement. If the landowner wants to fight the public and if the landowner wants to keep people off of this property and play hardball with the County, I would encourage the County to play hardball with the landowners. Six feet (6ft.) is not enough. We should have a ten foot (10ft.) easement and perhaps some parking. Can you zoom in? You see the white sand beach and you see the two (2) mansions. That is essentially a private beach. A private beach enjoyed by two (2) entities. No one else can get to that safely. That should not be allowed in the County of Kaua'i and should not be allowed in the State of Hawai'i for any beaches to be private and effectively the access to that, because it is not safe any other way, is private. It behooves us to honor the work of the Public Access, Open Space and Natural Resources Preservation Fund Commission and honor the needs of the community, fishermen, and the beach users and move forward in securing this access and other accesses. We have five million dollars (\$5,000,000) sitting in the bank and we are doing nothing and meanwhile all of these accesses are getting more expensive. There are people that are no longer alive that cannot use this because it has been ten (10) years. There are people in their seventies and are we going to wait another ten (10) years to let people use this to go fishing and to use the beach. We need to be more aggressive with this program, period, and I think this is a good way to start. Thank you.

Council Chair Rapozo:
Councilmember Kaneshiro.

Thank you very much. Anyone else?

Councilmember Kaneshiro: I think Council Chair brought up a good point and that was my point, too. Everyone is working hard on the project, but we have to know what our overall cost is. We are finding out how much it is to purpose the land. If it is condemn then we have all these additional attorney fees, but what is it going to cost to improve and what is our final cost to say, "Here, the public can now use this properly." What is the cost that will get us there because it is a big consideration considering I do not know how much improvements will cost to get people to the beach. Again, if you look at the value of that entire property three million something dollars, if we end up spending two million dollars (\$2,000,000) for a small little access, is that the proper way to spend the money? I do not know. I do need to know what is our end costs going to be in order to make a decision on it. If we can come up with some estimates on that. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Kagawa.

Councilmember Kagawa: I agree with Councilmember Kaneshiro, but there are various ways that we can work it out and I think the best way is through negotiation. If we want to get off the cheapest way, you just go with something like chain-link and fence it off, but I think for the owner, they would probably construct their own expensive wall next to the chain-link, but it would be better if we can both negotiate something. I do not think it is possible. We have the attorney here from the property owner, but like all the Councilmembers have said, this is not a new issue. It is about property owners who want to keep their privacy and the County government wanting to preserve beach access to a precious area. This is just another example of that and it is too bad that we cannot get a more workable solution where at least the local people will appreciate the owner recognizing that beach access for the public is important characteristic and working out a solution instead of having to deal with something like this where it is very difficult for the public to accept and it has to be at that kind of price to get what is so important to our people. I am looking at the same picture and seeing those two (2) humongous properties that are outrageous in value and this body right here having to decide whether we want to preserve beach access in an area that is basically not accessible. For any lawmaker that values our beach areas for our public, it is not a difficult decision, of course we want to acquire it. If we say "no," we are saying to the private owner, "You win. You have your fantasy island there and we will go look for other accesses." No, we want to work out a solution so that we have access. It goes back to the Hawaiian values. Nobody can own the beach. Nobody can own the fishing, but if we cannot get to it, we do not have that ownership. Nobody can own the water or the beach area. That is sacred in Hawaiian values. That is who feeds the family and basically teach the culture that has been passed on by generations and we are going to allow property owners to say, "No, you do not have that value and right because it is the dollar sign that is going to stand in the way?" No. We are going to do it. Whatever it takes, let

us do it—slam-dunk. We have to do this for our people, our future, and our future generations. We are going to continue fishing in that area. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Kuali'i.

Councilmember Kuali'i: Thank you to the Public Access, Open Space and Natural Resources Preservation Fund Commission. I know that this is their number one priority and I know they have done a lot of work, but by some of the questions today that were not answered, I think there is still a little bit more work to be done. I think we need to do it right and maximize the access that we do acquire with the limited funds that we have. With only four million dollars (\$4,000,000) to five million dollars (\$5,000,000) available and with trying to service the people of the entire island, access is critically important. Councilmember Kagawa talked about "feeding the family." Many of our local families depend on substance living and hunting and fishing. I grew up in a family where we would fish and hunt a lot for food, so we need to get more access all over the island. As important as this access is, I do not think we should deplete over one million dollars (\$1,000,000) with this particular option, but with the other three (3) options that are still put forward by the Planning Department and I agree with Planning's basic position that that access is important, but the expenditure of funds do not equate to the value of the acquisition to what we get in return. This item is here today, there is not ten (10) or twenty (20) fishermen in the audience saying how critically important this is, so we have to balance that to try and serve the entire island. We are trying to serve fishermen on the east side and on the west side. We have to do better to maximize what we do with this money and if it takes a couple more years, it takes a couple more years. When we get these reports, there are multiple sites that currently under consideration and I just think with a little bit more work we can get this done for less and that is why I have to vote against it today.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I think that access to the shoreline is one of the most important values that keep Kaua'i, Kaua'i. The members of the Public Access, Open Space and Natural Resources Preservation Fund Commission after waiting patiently for a long time are now asserting that value as a body that is supposed to be doing that for the people of Kaua'i. I think we need to move ahead with this Resolution. I will be voting to go to public hearing on it so we can at least hear the public's different opinions about it. We need to hear from the public. I believe we should pursue every possible option before we go to condemnation, but I do not know how viable those other options are and we can be pursuing these illusory options forever and then not doing anything in the long run. I think we should move ahead on this option, really pursue the other options as well, and see what we come up with. One million dollars (\$1,000,000) seems like a lot of money today, but I remember working on acquiring Crater Hill and Mokolea Point with the Trust for Public Lands

in 1984 or thereabouts and that person telling never let expensiveness stop you because if you look into the future, it will be ten (10) times more expensive in another ten (10) or twenty (20) years and much less possible than it is today. If you have the wherewithal to do it today, do it today, otherwise you will never be able to do it. I think public access is very, very important to our life style, our island, and to what we value. I think we need to move ahead.

Council Chair Rapozo:

Councilmember Chock.

Councilmember Chock: Thank you. I certainly appreciate the perspective that both the Planning Department and the Public Access, Open Space and Natural Resources Preservation Fund Commission has on this item. At last night's forum one of the questions was, "What do we focus on as Councilmembers in moving forward." The answer that I really enjoyed and appreciated was that we preserve the quality of life on this island and what is the price of that for us as leaders trying to make that determination. We need to take that into consideration about the kind of lifestyle that we are trying to preserve and keep so that our future generations can enjoy it. That being said, I am looking forward to diving deeper into it with some of the questions that have been asked today are relevant. I am looking forward to hearing from public testimony. I think it is time that we do hear from those people who have been fighting hard for this access for years. I think we are going to get a lot of support for it, is what I am going to anticipate. One, because we are quickly losing these accesses, especially in the Po'ipū area. I foresee that if this comes to fruition, it will be a used beach, even as small as it is. I think people will access and use it. The other point that I am a little uncomfortable about is the fact that we choose to and have asked to empower the community by getting Boards and Commissions together in order to make decisions so that it is more transparent and accountable. That is what we have done with the Public Access, Open Space and Natural Resources Preservation Fund Commission and yet, I think this is the third or fourth time that they have come with this specific request and we have turned them away for whatever reasons and there are some good reasons behind it. We need to really find out what the true cost is going to be in order for us to evaluate everything that we have in terms of choices. I am looking forward to all of those priorities that are coming forward from the Public Access, Open Space and Natural Resources Preservation Fund Commission as well and hopefully we can look at them collectively. I will be supportive of this with moving forward to public hearing and most likely will like to see it at least make a stand on something because it is overdue. I do not like the notion of being bullying into not being able to have access. Thank you.

Council Chair Rapozo:

Anyone else? Councilmember Kualii.

Councilmember Kualii: I just wanted to say that ultimately as the elected body, we are responsible to spend our taxpayers' dollars as best as we can and

give them the best value for the amount of money spent. The other thing is that when this property was presented by the Planning Department and the Commission before was put forward as a low-hanging fruit and that was because it was friendly. I think it is important that we have friendly exchange and that we try to avoid condemnation as much as possible because of all the problems we have seen and how much time is involved, years and year, how much expense is involved, millions and millions. If we push this with an unwilling landowner, we are only going to have future problems and future expenses and long delays. We need to pursue those other options and see what they are, how much time it will take, and how much it will cost so we can make a more informed decision. I know as a principle, it is important to show that we support public access, of course we do, but we have to think about the entire island. Supporting this Resolution would mean starting the condemnation process. While you could still look at the other things at the same time, it is saying that this is the route that we are going and this is what we are approving when we do not even know what the bottom line cost is. I think we have to consider everything and I think the Planning Commission's recommendation is the responsible one that I agree with. Thank you.

Council Chair Rapozo: Anyone else? I want to start by saying thank you to the Public Access, Open Space and Natural Resources Preservation Fund Commission. This is proof that the Commission...there was a time where Mayors would go into Commissions, and I am not talking about Kaua'i, but everywhere and say, "Hey, no." This is clearly an action or recommendation from a Commission that the Mayor does not necessarily agree with, and I think it is good. I think bringing it here so that it can get the public discussion is the way the system supposed to work, so I thank the Commission and obviously thank the Administration for sharing their concerns as well. I used the Sheehan property example because that is the real first condemnation that we really participated in, but if I could vote again on that one, I would have voted no. I would have voted no and I would have said, "No Administration, you go back and negotiate until there are no more negotiations available," but we did not. We went with the Administrations recommendation and we find ourselves stuck in court with appeals, Supreme Courts, and costs and money keep rolling and rolling. In this case, I do not know. I am going to support it today because I want to get it to the public hearing. What I have heard is that beach is not a very well used beach and it is seasonal because of the weather, but I do not know because I am not familiar with the beach, but I want to hear from the community. How valuable is this beach? At the end of the day, if it is going to benefit the community, then I think we have to really take a look at making it happen, but if it is going to benefit a couple, three (3), or four (4), and the price is this much, one-third of the value of the entire property, then I am not so sure it is a wise investment. I think we owe it to the public to at least get that input from the community. As it stands today, if we had to vote on a resolution today, I would not support it simply because we are not ready and we do not have the information today. We got what we got from the Commission, but I think the Planning Department has a duty and

obligation. I think a lot of what Councilmember Kualii was asking and a lot of what other Councilmembers were talking about, I question the value of this parcel that is being stated. Back in 2012, the Council at that time approved negotiations and the appraisal, which was it. To find out where we are at, every memorandum subsequent to that if you folks take a look in your packet, it is the same memorandum, but a different date. I can understand the frustration of the Public Access, Open Space and Natural Resources Preservation Fund Commission. Have we negotiated this to the end? Have we really? I understand nobody wanted to do the appraisal, I do not know, because I find it hard to believe because when appraisers appraise and they make money, so I find it hard to believe that they said, "No, we are not going to," since 2012. I just find that hard to believe. Granted even if that is the case, we obviously have to get it appraised that comes from an independent appraiser, not from the attorney of the owner, not from the owner, but from an independent appraiser. That is number one and that is lacking today. It is very premature to continue. Like Councilmember Kualii said, once you approve this, then boom, that property is going to be taken. Money will get put in escrow, that property is taken, and we have to be careful if that is truly what we want. I am really anxious. I know the newspaper is here and I hope they really put this in the paper because I think it is important that the community chimes in on this one because this could be a very expensive acquisition, but sometimes like Councilmember Kagawa said, you have to do it to show that the County is not going to be bullied. To the landowner, I respect their opinion. Heck if I owned that property, I would want no one on my property. I do not. But it is an easement. It is a drainage easement, which I think Councilmember Hooser talked about earlier. The drainage easement, not much use that owner can use it for so why not just work with the County? Why not say, "Hey County, we will just sign over, but provide us with..." and it has been recommended by several Councilmembers saying that the County will put a barrier or whatever we need to put up because we want to preserve this access. I do not know if that has occurred yet. That is what I am anxious to hear. Further discussion?

Councilmember Kualii: What is the motion?

Council Chair Rapozo: The motion is to schedule a public hearing on November 16, 2016, and that it thereafter be referred to the December 14, 2016 Council Meeting. Roll call.

The motion to schedule a public hearing on November 16, 2016, and that it thereafter be referred to the December 14, 2016 Council Meeting was then put, and carried by the following vote:

FOR MOTION:	Chock, Hooser, Kagawa, Kaneshiro, Kaulii, Yukimura, Rapozo	TOTAL – 7,
AGAINST MOTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,

RECUSED & NOT VOTING: None

TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. Next item, please.

Resolution No. 2016-61 – RESOLUTION CONFIRMING MAYORAL APPOINTMENT TO THE SALARY COMMISSION (*Daniel K. Aki*): Councilmember Yukimura moved for adoption of Resolution No. 2016-61, seconded by Councilmember Kuali'i.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Roll call. I am sorry. Councilmember Yukimura.

Councilmember Yukimura: I would just like to say that I was very impressed with Mr. Aki's answers to our questions during the interview, and I feel very confident that he will contribute great value to the Salary Commission. I am thankful for his willingness to serve.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: I have in my notes that I am enthusiastic for this appointment. I thought he interviewed really well and he showed a lot of experience and knowhow to support this Commission. Thank you.

Council Chair Rapozo: Mr. Furfaro is here and I know it has been publicly said numerous times how we appreciate the effort that Mr. Furfaro has put. As you look at this long list of appointments today, the quality of the nominees are very high quality people. I just want to thank Mr. Furfaro for properly screening these people and making sure that the best gets to this body because it makes it really easy for us. Thank you, Jay. With that, roll call.

The motion for adoption of Resolution No. 2016-61 was then put, and carried by the following vote:

FOR APPROVAL:

Chock, Hooser, Kagawa, Kaneshiro,
Kuali'i, Yukimura, Rapozo

TOTAL – 7,

AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-62 – RESOLUTION AUTHORIZING THE MAYOR OR THE DIRECTOR OF FINANCE OF THE COUNTY OF KAUAI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE HANAMĀ‘ULU AND KAPAIA SEWAGE PUMP STATIONS (SPS) RENOVATIONS, PROJECT NO. C150059-23: Councilmember Kualī‘i moved for adoption of Resolution No. 2016-62, seconded by Councilmember Kagawa.

Council Chair Rapozo: Thank you. This is connected with the earlier item that we had today, C 2016-222, the Legal Document. Councilmember Kaneshiro will be recusing himself.

(Councilmember Kaneshiro was noted as recused from Resolution No. 2016-62.)

Council Chair Rapozo: I want to recommend that the Administration come up to do their presentation, we will go through the presentation, we will vote on the Resolution, and then we will take up the Legal Document at the same time.

There being no objections, the rules were suspended.

(Council Chair Rapozo, the presiding officer, relinquished Chairmanship to Councilmember Kagawa.)

(Council Chair Rapozo was noted as not present.)

Mr. Tabata: Good morning, Chair and Members of the Council. It is still morning. I will turn the floor over to Edward Tschupp, our Chief of Wastewater to present you with our presentation and we appreciate the time.

EDWARD TSCHUPP, Chief of Wastewater: Good morning. For the record, Edward Tschupp, Chief of Wastewater Management Division, County of Kauai, Department of Public Works. The Resolution item that is specifically on this part of the agenda is an enabling resolution for the County to take out the low interest loan for funding to do the construction project for the Hanamā‘ulu and Kapaia Sewage Pump Station renovations. The Resolution is requesting a loan authorization of up to three million dollars (\$3,000,000), which is what we estimate the work at the two (2) pump stations will involve. As a separate item and the PowerPoint presentation that

is on the screen speaks to sort of both items that are on the agenda today. The bigger context is that this is related to the Ho'oluana at Kohea Loa development. I would like to jump into the PowerPoint. Just for context, the sewage from Hanamā'ulu is treated at the Līhu'e Wastewater Treatment Plant and so the title slide here shows a portion of the Līhu'e Wastewater Treatment Plant. That is conveyed to the Līhu'e Plant through a series of sewage pump stations. Next slide.

Councilmember Kagawa: Mr. Tschupp, just to clarify, you are saying the legal document item, C 2016-222 and this Resolution all ties in together, right?

Mr. Tschupp: Yes.

Councilmember Kagawa: Basically, you are going to be telling the Council why we need the legal document and the Resolution to be approved?

Mr. Tschupp: Yes.

Councilmember Kagawa: You can continue.

Mr. Tschupp: Thank you for clarifying that because the legal document is what we are referring to as a Cost-Sharing Agreement and it is an agreement between the County and Grove Farm Company, Inc. This all speaks to some of the background and history of the Ho'oluana at Kohea Loa subdivision, that the master developer of that property who originally was American Factors Property (Amfac, Inc.) and it was part of the Amfac Līhu'e development area. For that to be sewered, it involves not only the pumping of sewage from the Ho'oluana at Kohea Loa property and the developer, the parcel developer is D.R. Horton, but Grove Farm Company, Inc., as the master developer before they sold the Ho'oluana at Kohea Loa triangle to D.R. Horton. They had conditions that were established upon them. One (1) of those conditions was to essentially put in larger pumps to handle the additional sewage flow from the Ho'oluana at Kohea Loa subdivision to get the Līhu'e Plant and that is larger pumps at two (2) existing County pump stations, the Hanamā'ulu Pump Station and the Kapaia Pump Station. That was identified in the Grove Farm Wastewater Master Plan, which was submitted to the County in 2008. Clearly it has been identified over the years that improvements are needed for those two (2) existing County sewage pump stations. Grove Farm Company, Inc. proceeded with designing the improvements and they hired the consultant and we talked with them initially back in the 2008 to 2009 timeframe and for technical reasons, it is not just as simple as putting in bigger pumps because you will start to get into "the other systems" that are associated with the pump stations like electrical systems. We have thirty (30) year old pump stations, the motor control centers are really kind of at the end of their useful life, so when we initiated the discussions of how are you going to put in bigger pumps, it became clear right away that the best way to do that was to do more of a complete station rehabilitation. Included in the project are new emergency

generators, new electrical controls, and all of which are part in parcel of the responsibility of Grove Farm Company, Inc. to put in bigger pumps. When we looked at it, we considered that the improvements of modernization and rehabilitation of the entire pump stations was about a fifty/fifty (50/50) County is benefiting/Grove Farm has an obligation. We proposed that a fifty percent (50%) cost-share agreement was an appropriate mechanism. Now that the subdivision is being constructed, that creates a sense of urgency for moving forward with the renovations and rehabilitation of these two (2) pump stations. Over the last year, we reentered into discussions with Grove Farm Company, Inc. about really coming to a partnership to do the cost-share and one (1) of the new things this year that had not been in the discussion earlier was the concept of a land donation as Grove Farm's share of the cost.

Here is a visual of where the Hanamā'ulu community and where the two (2) existing County pump stations are and the Ho'oluna at Kohea Loa subdivision. The darker upper area that says "Kohea Loa phase I" is what is triggering this action coming to you now. In red, the two (2) existing County pump stations are labeled at Hanamā'ulu, which is at the end of the current subdivision and right adjacent to the new subdivision. Kapaia pump station is down in the valley. Hanamā'ulu pumps up the hill to get to the road leading down to the Kapaia pump station, the highway, and then the Kapaia pump station pumps up the hill up by Wilcox Medical Center and then from roughly Wilcox Medical Center, the sewage flows by gravity down to the Līhu'e Plant. The new element this year that I think really makes for a very win-win-win kind of a project is in green we have labeled that parcel as the donated lands, which is right next to the King Kaumuali'i Elementary School that is approximately three (3) acres or two point nine (2.9) acres. The idea here is that Grove Farm Company, Inc. can off-set part of their cost for the cost-sharing by the donation of land which the intent will be usable for a neighborhood center for the Hanamā'ulu community. I believe that has been a long-term goal of a lot of people. Next slide.

Some details on the project. Each pump station will be equipped with new pumps, new electrical system, and new emergency generator. The design has been completed, which was an effort that Grove Farm Company, Inc. has already contributed. They hired the consultant and did the design, but they are going to hand the plans over to the County and the County will bid and contract for the construction. The County will then manage the construction and pay for that. We are proposing this is where this comes back to the Self Revolving Fund (SRF) that the funding mechanism that the County would use is to go to the State of Hawai'i Department of Health (DOH) and request the SRF low interest loans. As indicated, our budget is three million dollars (\$3,000,000). A lot of Grove Farm's contribution will be in the two point nine (2.9) acre of donated land. The County did an appraisal of that land and the appraised value is one million three hundred seventy thousand dollars (\$1,370,000). The appraisal report, by the way, is attached to the legal documents, so there is a copy of that. That was independently paid for by the County. We will proceed with the project, do the construction, and at the end of the day when the

construction is done there is a provision in the legal agreement for reconciliation of the costs so that whichever party carries more costs will reimburse the other to make a fifty/fifty (50/50) cost-share. The next couple of slides will show visuals of the two (2) pump stations. That is the Kapaia Pump Station on Ma'alo Road off to the left, so it is a small structure on a tiny piece of property. This is the Hanamā'ulu Pump Station and the dust screen for the subdivision construction is right behind this pump station. You can see the Līhu'e Airport on the last slide here. The Wastewater Treatment Plant is one of the yellow pins next to the airport and then back up the hill towards the gravity sewer coming down Rice Street, the pump station up in Kapaia Valley is there. The Hanamā'ulu Pump Station is there. D.R. Horton, the developer, is actually constructing a new pump station at the bottom end of Ho'oluana at Kohea Loa and they intend to dedicate that pump station to the County, so that is the bigger picture of the sewage system of Līhu'e and Hanamā'ulu.

Councilmember Kagawa: Thank you. Just to clarify, a pump station is like a big toilet where everything goes to that toilet, you flush it, and power it to the next place?

Mr. Tschupp: I supposed that is a reasonable analogy.

Councilmember Kagawa: Members, do you have any questions? Good presentation. Thank you. Councilmember Yukimura.

Councilmember Yukimura: Will the loan apply to the total cost?

Mr. Tschupp: That is correct.

Councilmember Yukimura: Right. Therefore, Grove Farm Company, Inc. will be getting an advantage of being able to get that kind of loan rate. What is the loan rate?

Mr. Tschupp: Right now, the loan rates are one point two five percent (1.25%) interest over a twenty (20) year period.

Councilmember Yukimura: And we will get the opportunity to upgrade our sewer pump stations, which badly need upgrading and it will help to also enhance Grove Farm's investment in those pumps because better to put it in a good system than a really aging one.

Mr. Tschupp: I agree with that. The existing pump stations are over thirty-five (35) years old and with thirty-five (35) year old electrical systems and pumping systems, it is time for rehabilitation.

Councilmember Yukimura: It is really a win-win partnership here and this is all going towards supporting an affordable housing project that is a condition of Grove Farm's overall Līhu'e development.

Mr. Tschupp: Correct.

Councilmember Yukimura: Although the main affordable housing is not in the first phase because the affordable housing in the first phase will be four hundred thirty-five thousand dollars (\$435,000) and that is the high-end of the affordability. It will be the subsequent phases that will hopefully get us to more affordable units. Are the pump stations going to service the subsequent phases as well as the first phase?

Mr. Tschupp: That is correct.

Councilmember Yukimura: And then we will also be getting a site for a Hanamā'ulu Neighborhood Center which is long overdue and eagerly sought for many, many years, so that is going to actually move towards a land site donation for the community.

Mr. Tschupp: Correct.

Councilmember Yukimura: Which is right next to the school?

Mr. Tschupp: Yes.

Councilmember Yukimura: It seems like a really appropriate site.

Mr. Tabata: Yes. We want to emphasize that when we were trying to work out how we would split the fifty/fifty (50/50) between the County and Grove Farm Company, Inc., Managing Director Nadine Nakamura at that time, came up with this idea, so she was the one who initiated the thought and moved forward with us with Grove Farm Company, Inc.

Councilmember Yukimura: It appears to be a very creative solution to a lot of problems and all of you involved: Grove Farm Company, Inc., our Wastewater Treatment Division, Department of Public Works, and former Managing Director, are all to be commended. Thank you. Okay. Thank you for explaining the project. I think it is important that members of the public understand what is happening here.

Councilmember Kagawa: Further questions? Councilmember Hooser.

Councilmember Hooser: You mentioned that D.R. Horton is building a pumping station as well that will be decided to the County, is that correct?

Mr. Tschupp:

That is correct.

Councilmember Hooser: Does the County participate in the specifications and the quality of that project? I would imagine that there is first class, triple "A" (AAA) pump stations and there is triple "D" (DDD) pump stations and there are concerns possibly that someone might put in an average, but yet they are going to give it to the County and then the County is responsible from that point. What role does the County have in terms of the type of pump station that is going to be in terms of the quality?

Mr. Tschupp: We have reviewed and had discussions with the designer of that pump station. We are also actively involved in reviewing the submittals on the equipment and so on. On one (1) level, we have standards that are applicable and certainly that applies very directly to the quality of new sewer lines. When it comes to pump stations, our standards are not as strong as we would want them to be because the standards have not been updated for many, many years. I think they are standards for 1973. There has been evolution in what is acceptable for sewage pump stations, so some of the older pump stations are even below ground and you might drive by them and not even know it is there because they do not have a building. The pumps are situated in an underground structure and we want to get out of those kinds of pump stations. This new pump station has a control building, the pumps are desired standards for new pumps, there are electrical submersibles that are accessible from the surface, and emergency generators are provided. We do kind of have a reference standard to the City and County of Honolulu's standards and if our standards do not speak to it, then under State law or regulations, there is actually a default to the City and Council of Honolulu's standards. Our standards are a little weak with respect to pump stations. They do need to be updated at some point, but I am very satisfied with the materials, workmanship, and equipment that is being specified for and installed in the new pump station.

Councilmember Hooser: What is their lifespan? Is it twenty (20) or thirty (30) years that they are expected to operate before they need major replacements?

Mr. Tschupp: Any mechanic/electrical system has a standard life for major components of around thirty (30) years. Obviously, there is a building, that is a longer term because buildings last longer, but thirty (30) years is a pretty good target for electrical systems.

Councilmember Hooser: Okay. On the land contribution, because it is not really a donation, it is a payment via land.

Mr. Tabata:

Yes.

Councilmember Hooser: Are there any restrictions on the use of that or any strings attached to that land?

Mr. Tschupp: I would like to defer to the County Attorney.

Councilmember Kagawa: Mr. Trask, if we need to go into Executive Session, let us do it.

Councilmember Hooser: I know in other property transactions, sometimes Grove Farm Company, Inc., will specify the use and how it is used in certain times or ways. I would like to know if there are any restrictions on this.

Mr. Trask: *Aloha*, for the record, Mauna Kea Trask, County Attorney. In the recitals of the Cost-Share Agreement, this is specifically paragraphs B and C. The entitlements for this began as far back as 1982 via ordinance in front of this Council body and at that time pursuant to Ordinance No. PM-310-95 and PM-326-96 states, "That the possible contribution of lands for a public facilities complex shall be addressed during the LHMPZ zoning amendment process," and they can resolve that with the County "for acquisition along with the details for land acquisition for the development of a public facilities complex." So that is what it would be for. In order to justify this, it cannot be for anything else. That is why Mr. Tabata said that former Managing Director Nadine Nakamura had this idea for the neighborhood center, it fit perfectly within what the law allows. That is the intent.

Councilmember Hooser: In terms of the number of parking spaces, hours of operation, noise, and lights, there are no restrictions?

Mr. Trask: It would be given to the County and then the value would be used essentially to off-set the cost for the thing. Therefore, it would be like anything else, it would be ours.

Councilmember Hooser: The County would determine the hours of operation, the parking, the use...

Mr. Tschupp: Fee simple ownership, yes.

Mr. Trask: Yes.

Councilmember Hooser: Okay. Thank you.

Councilmember Kagawa: Further questions? Councilmember Yukimura.

Councilmember Yukimura: As a follow-up to the question from Councilmember Hooser about the specifications or the standards for pump stations, do you have plans to update that?

Mr. Tschupp: It is a fairly labor intensive effort to go through and update something like a set of design standards. Right now, I actually do not have staffing. It would take a conservative effort on the part of staff engineer to go through and try to adopt new standards.

Councilmember Yukimura: Could you just not adopt City and County of Honolulu standards because the way I heard you say it, if there are old standards that apply, they apply, but if there are no standards that apply, then your fall back is to the City and County of Honolulu's standards? I am just concerned about the amount of development we will be having overtime and having them do things according to old standards sounds a little bit troublesome if it is things that are supposed to last for thirty (30) years or more.

Mr. Tschupp: In effect, the default to City and County of Honolulu's standards is already there. That is kind of a State of Hawai'i Department of Health kind of thing, but that more applies to pump stations and treatment works. Therefore, there is not that many new pump stations that are coming up. There are conceivably another one (1) or two (2) that will be showing up over the next five (5) to ten (10) years, but since I have been here with the County, there has not been a new built for conveyance sewage pump station. I think the last ones were built by the County or built by the developer, probably in the 1990s or before, probably the 1980s. A new pump station is not all that common. I think it makes sense for us to defer to City and County of Honolulu's standards for pump station and treatment works. The area that is a little bit more critical for us with growth and development is the piping, the sewage collection system part where our standards do apply, and I think it would be beneficial for us to update those standards because there are some new materials like polyvinyl chloride (PVC) pipe, which is not all that new, but it was not adopted in the 1973 standards. We actually have been also referring to State Highways, the Brown Book, which has roadway and bridge standards and so we use those standards also. It is a little bit of a mishmash.

Councilmember Yukimura: My only concern is that we have current standards that best protect both the system and the people that are being served.

Mr. Tabata: Thank you, Councilmember Yukimura. We will take that under advisement and we will look into this.

Councilmember Yukimura: Thank you. Lastly, you have in your presentation that each sewer pump station will be equipped with new pumps, new

electrical system, and new emergency generators. Right now, do we have emergency generators at each pump station site?

Mr. Tschupp: We have a little bit of a mismatch. There are two (2) pump stations up in Kapa'a that do not actually have an emergency generator, but the way those pump stations are configured, if power is lost then water levels will raise high enough and then overflow into the pipe anyway. It is sort of a fail-proof system that we would never have a problem with the spill from those pump stations. All the rest of our nineteen (19) pump stations have emergency generators.

Councilmember Yukimura: So the ones that are involved here in this project have emergency generators right now?

Mr. Tschupp: That is correct.

Councilmember Yukimura: And they will get new ones with the new electrical system?

Mr. Tschupp: That is correct. The existing ones are a little undersized and they are thirty-five (35) years old, so it is time to rehabilitate them.

Councilmember Yukimura: Okay. Thank you very much.

Councilmember Kagawa: Further questions? Seeing none, thank you. You folks did a good job explaining. I had no clue and I understand what we are doing and why we are doing it, so thank you. Any more questions? Do you folks have questions for Grove Farm Company, Inc.? No. Grove Farm Company, Inc., did you folks want to speak? Thank you.

The meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Councilmember Chock.

Councilmember Chock: I just want to thank the Administration for the presentation. They were able to meet with us individually and gave us a briefing on this, but I think it all matches up. I wanted to thank them and also the landowners, I see representatives here for the foresight and willingness to look at adding the neighborhood center for the Hanamā'ulu community. I think it is a much needed facility and overdue, so I appreciate us moving in that direction. Thank you.

Councilmember Kagawa: Councilmember Kualii'i.

Councilmember Kualii'i: I will add that I am very happy to see that we have worked this out this way and with the need for even more housing, I think we

need to keep looking for creative collaborative efforts like this to move the creation of more housing along faster. Also, thank you to the landowners.

Councilmember Kagawa: Councilmember Yukimura.

Councilmember Yukimura: We cannot have affordable housing without the appropriate supportive infrastructure, so this piece regarding the sewage system that is going to support Ho'oluana at Kohea Loa is very important, and I am impressed by the creativity and collaboration that has gone into making this plan. I am also very grateful for the fact that Hanamā'ulu will be finally getting a very appropriate site for their neighborhood center, which they waited for, for a very long time. I guess my only wish is that we could get affordable housing in that range that we need greatly, which is the eighty percent (80%) to one hundred percent (100%) of median income and lower, and so if there is any way to accelerate that, that is very important. Thank you.

(Council Chair Rapozo was noted as present.)

Councilmember Kagawa: I really want to see that neighborhood center include a gym. I think a community gym has desperately been needed for a while. From the time I was coaching volleyball and basketball, we would also say, "It would be nice if Līhu'e had a gym," and twenty (20) years later we are still here with no community gym in Līhu'e. I think that would be a nice feature if we could have that gym because it is too large of a community not to have a community gym that everyone can use. I think Kaua'i High School is strict on letting the community use it. Kapa'a High School is much more open, but every school has their own management of their gym, so rather than continuing to hope that Kaua'i High School changes their mentality towards allowing the community use, I think having our own gym will definitely serve the community well. Council Chair Rapozo, do you have any discussion?

Council Chair Rapozo: I am okay.

Councilmember Kagawa: Roll call, please.

The motion for adoption of Resolution No. 2016-62 was then put, and carried by the following vote:

FOR APPROVAL:	Chock, Hooser, Kagawa, Kualī'i, Yukimura, Rapozo	TOTAL – 6,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Ms. Fountain-Tanigawa: Six (6) ayes and one (1) recused.

Councilmember Kagawa: Council Chair, I would like to turn the meeting back to you, but I would recommend that we go to the Legal Document, and that way we can get Councilmember Kaneshiro back in for the rest of the votes.

(Councilmember Kagawa returned Chairmanship duties to Council Chair Rapozo.)

Council Chair Rapozo: Yes. The motion on the floor was to approve, so if there is no further discussion...

The motion to approve C 2016-222 was then put, and carried by a vote of 6:0:0:1
(Councilmember Kaneshiro was recused).

Council Chair Rapozo: Motion carried. Thank you very much. As we get Councilmember Kaneshiro back in the room, I am going to suggest that we finish up our Bills for First Reading and the Bills for Second Reading before we do all those Resolutions, so we can get these people out of here. If there is no objection, can we go to Bills for First Reading, please?

There being no objections, Proposed Draft Bill (No. 2639) was taken out of order.

(Councilmember Kaneshiro was noted as present.)

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2639) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kauai Fire Department, Training Bureau, Other Small Equipment, Fifty (50) Automated External Defibrillators – \$151,000.00*): Councilmember Kualii moved for passage of Proposed Draft Bill (No. 2639) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 16, 2016, and referred to the Budget & Finance Committee, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmember, further discussion? Seeing none, roll call.

The motion for passage of Proposed Draft Bill (No. 2639) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 16, 2016, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kagawa, Kuali'i, Yukimura, Rapozo	TOTAL – 7*,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

*(*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent, but shall be recorded as an affirmative vote for the motion.)*

Ms. Fountain-Tanigawa: Seven (7) ayes.

Proposed Draft Bill (No. 2640) – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Kaua'i Fire Department, Fire Operations Public Safety, Sixty (60) Self-Contained Breathing Apparatus (SCBA) – \$390,000.00*): Councilmember Kuali'i moved for passage of Proposed Draft Bill (No. 2640) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 16, 2016, and referred to the Budget & Finance Committee, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Councilmembers, further discussion? Seeing none, roll call.

The motion for passage of Proposed Draft Bill (No. 2640) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for November 16, 2016, and referred to the Budget & Finance Committee was then put, and carried by the following vote:

FOR PASSAGE:	Chock, Hooser, Kagawa, Kagawa, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST PASSAGE:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

(Councilmember Kaneshiro was noted as recused from Bill No. 2637.)

BILLS FOR SECOND READING:

Bill No. 2637 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2016-812, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2016 THROUGH JUNE 30, 2017, BY REVISING THE AMOUNTS ESTIMATED IN THE GENERAL FUND (*Office of Economic Development, Grant In Aid (Special Events Security)*) – \$43,473.00): Councilmember Yukimura moved for adoption of Bill No. 2637, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kuali'i.

Council Chair Rapozo: For the record, Councilmember Kaneshiro has recused himself because of the Kōloa Plantation Days. Further discussion? Councilmember Kagawa.

Councilmember Kagawa: I just wanted to reiterate some of my hope, which is maybe we could work with the Chief of Police and maybe try and see if we can work on reducing some of the overtime by just using existing bodies and possibly offering something like compensation time during times when they are not so busy. You may have officers who may live on the west side that may say, "I want to do my work on the weekend, my four (4) or eight (8) hours at the Waimea Town Celebration. I live there. My kids will be attending or working at the food booth." I was hoping that we can come up with some of those solutions to reduce some of the overtime using management techniques that possibly may help both sides and then that way save taxpayer money instead of always having to hire out police officers on overtime. I was hoping that in the future we can work towards trying to reduce some of the overtime that we pay where we can avoid it. That is my wish and hope. I hope the Administration will at least attempt to try and see if we can work it out with the Chief of Police. Thank you.

Council Chair Rapozo: Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I, too, would love to see some cost effective alternatives, but until they come forth, I do not think we can cut out this very

essential service. I think that is what happens sometimes when we are trying to cut the budget so much and do not have other resources. I am glad that this is back in so we can support these community events.

Council Chair Rapozo: Anyone else? I think I make my points quite clear last week that not supporting this does not mean I do not support the Relay for Life or the parades and the lights festivals. I had a chance to talk with George K. Costa, Director of Economic Development yesterday and I think it was obviously a miscommunication from what he thought the Council said in the budget or what I thought the Council said in the budget. The Council, yes, did in fact cut that, but the Council did that with the anticipation or expectation that the Administration would find those funds within their existing budget and cover those things and not to come back two (2) or three (3) months later and ask to tap the reserve fund. That actually makes no sense if you think about it. Why would we do that? If we had supported that money, we would have supported it in the budget, but we did not. Granted it was not unanimous, but the fact of the matter is the Council, by majority vote, said that these funds should be looked at from the existing budget and that I would support a money bill should they not find it or should they have a problem that they would come back to us with a money bill showing the transfer of existing funds from various departments, we are talking about only forty thousand dollars (\$40,000), to go into funding these things. A couple of things. Number one (1), where does this end? It is a fairness issue for me. We have hundreds of nonprofits. We are negotiating or contemplating a bill that is going to create some regulation for the event in Hanapēpē. That is going to require police officers because that is a nonprofit. So they are going to come up and say, "Hey, can you pay for the security for our event?" How are we going to tell them no? All the other nonprofits on the island that need police services or security services are going to come and say, "Hey, you gave so and so. How do we get that benefit?" I am hearing comments from the public that maybe you have to be friends with the Mayor or you have to be friends with the Council. Is that how you get free police service? Some of those entities that are going to be receiving this money can pay for it on their own. They generate enough revenue through their events to pay for this on their own and I am not going to mention names, but I am just saying. Relay for Life is one, they do not generate enough money. Nobody gets paid. They do not generate huge amounts of money as compared to others, but I guess my point as far as fairness and equity, where do you stop this from happening? If the Administration, or the Mayor, or the Office of Economic Development wants to support certain organizations, then it should come out of their budget at the time of budget and if it does not pass, it does not pass. You tell those people, "We are really sorry." You can blame the Council, but whatever the issue is the bottom line is that it does not make any sense for us to go through a budget process, have the discussion and debate, make the vote, and then a few months later come back and treat the reserve fund as a slush fund. Let us call a spade a spade. That is what is happening right here and it is unfortunate because these events are events that are very significant to the community, but there are many more. Many more that is going to

sit back and ask, "How come we do not qualify. What do I have to do to get three thousand dollars (\$3,000) to pay for security for our nonprofit event?" How do we tell them know? I do not know. I think the way you do it is you let the Administration decide whether or not that event is worthy and then you go to the Police Department, the Police Department will take care of the overtime, and then when the moneys get tight and the Police Department comes back here to ask for more money. Then we figure out why and then the Police Department comes up and say, "We need more money because in the last three (3) months we had to pay x amount of dollars in overtime for public community events," and at that point, we make the determination. I think you are opening up a can of worms with this because nonprofits watching this will find out about this and say, "Good, I did not realize the County has this program," and I just do not see how you pick and choose. Anyway, my no vote is not a vote against the events. It is a vote against the way we had circumvented the budget process. Thank you. That is my light. Councilmember Kagawa.

Councilmember Kagawa: Just to piggyback on what you said. Every year we lapse between thirteen million dollars (\$13,000,000) to fourteen million dollars (\$14,000,000) in our budget. To say that the Director of Finance and his staff cannot find this early in the year, it is only October, three (3) or four (4) months went by, forty-three thousand four hundred seventy-three dollars (\$43,472) for something you really feel is really important and the Council should not have taken it out. It is like asking somebody to find one dollar (\$1) when you have one thousand dollars (\$1,000) in your wallet. Every year now. We do not lapse fourteen million dollars (\$14,000,000) one (1) year and then zero dollars (\$0) the next. Every year we lapse thirteen million dollars (\$13,000,000) to fourteen million dollars (\$14,000,000). To say that you folks have to come today because we cannot find that money, that just tells me that you have no clue how to find something in the budget because it is forty-three thousand dollars (\$43,000) when you have fourteen million dollars (\$14,000,000) lapsing every year. It is frustrating. Thank you.

Councilmember Kualii: I just wanted to add one (1) quick point too. Of the original amount which was fifty-three thousand dollars (\$53,000) what we are coming back to approve is forty-three thousand dollars (\$43,000), so the Office of Economic Development did go back and work through this and said "okay" with ten thousand dollars (\$10,000) or twenty percent (20%) of the original cuts.

Council Chair Rapozo:

Councilmember Hooser.

Councilmember Hooser: I am in strong support of this. I think this money goes directly into the community; there is no question about that. It is relatively a small amount of money. These are many, many worthwhile people and projects, people that are volunteering to do good things for our community, spending their time outside of work, and spending outside of family to make these events

happen. I think it is a small thing we can do to support these very worthwhile projects. I am supporting it enthusiastically and if other groups need help from the County, I think they should come and ask. I think the people that are out there working on their own are the strength of our community. They hold festivals, do good work, support good cause whether it be a parade, or whether it be the Relay for Life or other very worthwhile causes. It is a small amount of money when you look at our budget and I think we should be happy to support it. My vote is in strong support. Thank you.

Council Chair Rapozo: Anyone else? I just want to say that since August 1st to present, two and a half (2.5) months, there have been over five hundred thousand dollars (\$500,000) of transfers internally at the Administration. Five hundred nine thousand dollars (\$509,000) in two and a half (2.5) months, you tell me that we could not find forty thousand dollars (\$40,000) to help these wonderful events? With that, roll call.

The motion for adoption of Bill No. 2637, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kuali'i,	
	Yukimura	TOTAL – 5,
AGAINST ADOPTION:	Rapozo	TOTAL – 1,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	Kaneshiro	TOTAL – 1.

Ms. Fountain-Tanigawa: Five (5) ayes.

Council Chair Rapozo: Let us get Councilmember Kaneshiro back in.

(Councilmember Kaneshiro was noted as present.)

Bill No. 2638, Draft 1 – A BILL FOR AN ORDINANCE TO AMEND SECTION 2, ORDINANCE NO. 891 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS OF THE COUNTY OF KAUAI FOR THE PURPOSE OF FINANCING CERTAIN PUBLIC IMPROVEMENTS AND REFUNDING CERTAIN BONDS OF THE COUNTY; FIXING OR AUTHORIZING THE FIXING OF THE FORM, DENOMINATIONS, AND CERTAIN OTHER DETAILS OF SUCH BONDS AND PROVIDING FOR THE SALE OF SUCH BONDS TO THE PUBLIC: Councilmember Yukimura moved for adoption of Bill No. 2638, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kuali'i.

Council Chair Rapozo: I raised some concerns last week and I did have a chance to meet with the Department of Finance yesterday and I am satisfied with the way it is. Are there further comments or questions? If not, roll call.

The motion for adoption of Bill No. 2638, Draft 1, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Now we can go back to the Resolutions.

Resolution No. 2016-63 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BUILDING BOARD OF APPEALS (*Patrick D. Lizama – Fire Safety*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-63, seconded by Councilmember Yukimura.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-63 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-64 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Ryan M. de la Pena*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-64, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion for adoption of Resolution No. 2016-64 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-65 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF ETHICS (*Maureen M. Tabura*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-65, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion? Let the record reflect that there are no members of the public in the audience except for members from the Administration, and if you want to make testimony, raise your hand, and I will recognize you. Any discussion? Otherwise, we will continue, roll call.

The motion for adoption of Resolution No. 2016-65 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-66 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE BOARD OF WATER (*Laurie K. Ho*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-66, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-66 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-67 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE CIVIL SERVICE COMMISSION (*Elizabeth Hahn*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-67, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-67 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-68 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE COST CONTROL COMMISSION (*Joanne P. Nakashima*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-68, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-68 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,

RECUSED & NOT VOTING: None

TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-69 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE COST CONTROL COMMISSION (*Jan Hashizume*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-69, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-69 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-70 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE FIRE COMMISSION (*Michael Martinez*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-70, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-70 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-71 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE FIRE COMMISSION (*Chad K. Pacheco*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-71, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-71 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-72 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Jean A. Iida*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-72, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-72 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-73 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE LIQUOR CONTROL COMMISSION (*Paul N. Endo*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-73, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-73 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-74 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Sean M. Mahoney – Labor*): Councilmember Kualii moved for adoption of Resolution No. 2016-74, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-74 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-75 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE PLANNING COMMISSION (*Heather K. Ahuna – Environmentalist*): Councilmember Kualii moved for adoption of Resolution No. 2016-75, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-75 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kualii, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-76 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE POLICE COMMISSION (*Gerald Bahouth*): Councilmember Kualii moved for adoption of Resolution No. 2016-76, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-76 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Resolution No. 2016-77 – RESOLUTION CONFIRMING MAYORAL REAPPOINTMENT TO THE SALARY COMMISSION (*Lenie F.P. Nishihira*): Councilmember Kuali'i moved for adoption of Resolution No. 2016-77, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion for adoption of Resolution No. 2016-77 was then put, and carried by the follow vote:

FOR ADOPTION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL – 7,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: With that, can you read us into Executive Session, please?

Ms. Fountain-Tanigawa: Chair on page 10, Executive Session.

EXECUTIVE SESSION:

ES-873 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing and request authority to settle the case of Christina Pilkington vs. County of Kaua'i. et al., Civil No. CV14-1-0123 (Fifth Circuit Court), and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

ES-874 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4, 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), on behalf of the Council, the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing, discussion and consultation regarding the quarterly report on pending and denied claims. This briefing and consultation involves the consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Yukimura moved to convene in Executive Session for ES-873 and ES-874, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Any discussion? Seeing none, roll call.

The motion to convene in Executive Session for ES-873 and ES-874 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Chock, Hooser, Kagawa, Kaneshiro, Kuali'i, Yukimura, Rapozo	TOTAL - 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	None	TOTAL - 0,
RECUSED & NOT VOTING:	None	TOTAL - 0.

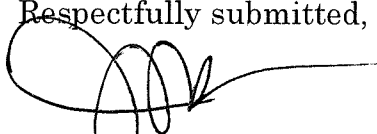
Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: With that, the regular meeting is adjourned and we will reconvene in the Executive Session Chambers in five (5) minutes.

ADJOURNMENT:

There being no further business, the Council Meeting adjourned at 12:16 p.m.

Respectfully submitted,



JADE K. FOUNTAIN-TANIGAWA
County Clerk

:dmc